93D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 93-1640

NATIONAL HEALTH PLANNING AND RESOURCES DEVELOPMENT ACT OF 1974

DECEMBER 19, 1974.—Ordered to be printed

Mr. ROGERS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 2994]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2994) to amend the Public Health Service Act to assure the development of a national health policy and of effective State and area health planning and resources development programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE; TABLE OF CONTENTS

SEC. 1. This Act may be cited as the "National Health Planning and Resources Development Act of 1974".

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Revision of health planning programs under the Public Health Service Act.

"TITLE XV—NATIONAL HEALTH PLANNING AND DEVELOPMENT

"Part A—National Guidelines for Health Planning

"Sec. 1501. National guidelines for health planning.
"Sec. 1502. National health priorities.
"Sec. 1503. National Council on Health Planning and Development.

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"Part B—Health Systems Agencies

"Sec. 1511. Health service areas.
"Sec. 1512. Health systems agencies.
"Sec. 1513. Functions of health systems agencies.
"Sec. 1514. Assistance to entities desiring to be designated as health systems agencies.
"Sec. 1515. Designation of health systems agencies.
"Sec. 1516. Planning grants.

"Part C—State Health Planning and Development

"Sec. 1521. Designation of State health planning and development agencies.
"Sec. 1522. State administrative program.
"Sec. 1523. State health planning and development functions.
"Sec. 1524. Statewide Health Coordinating Council.
"Sec. 1525. Grants for State health planning and development.
"Sec. 1526. Grants for rate regulation.

"Part D—General Provisions

"Sec. 1531. Definitions.
"Sec. 1532. Procedures and criteria for reviews of proposed health system changes.
"Sec. 1533. Technical assistance for health systems agencies and State health planning and development agencies.
"Sec. 1534. Centers for health planning.
"Sec. 1535. Review by the Secretary.
"Sec. 1536. Special provisions for certain States and Territories."
Sec. 4. Revision of health resources development programs under the Public Health Service Act.

"TITLE XVI—HEALTH RESOURCES DEVELOPMENT

"Part A—Purpose, State Plan, and Project Approval

"Sec. 1601. Purpose.
"Sec. 1602. General regulations.
"Sec. 1603. State medical facilities plan.
"Sec. 1604. Approval of projects.

"Part B—Allotments

"Sec. 1610. Allotments.
"Sec. 1611. Payments from allotments.
"Sec. 1612. Withholding of payments and other compliance actions.
"Sec. 1613. Authorization of appropriations.

"Part C—Loans and Loan Guarantees

"Sec. 1620. Authority for loans and loan guarantees.
"Sec. 1621. Allocation among States.
"Sec. 1622. General provisions relating to loan guarantees and loans.

"Part D—Project Grants

"Sec. 1625. Project grants.

"Part E—General Provisions

"Sec. 1630. Judicial review.
"Sec. 1631. Recovery.
"Sec. 1632. State control of operations.
"Sec. 1633. Definitions.
"Sec. 1634. Financial statements; records and audit.
"Sec. 1635. Technical assistance.

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"Part F—Area Health Services Development Funds

"Sec. 1640. Area health services development funds."
Sec. 5. Miscellaneous and transitional provisions.
Sec. 6. Advisory committees.
Sec. 7. Agency reports.
Sec. 8. Technical amendment.

FINDINGS AND PURPOSE

"SEC. 2. (a) The Congress makes the following findings:

(1) The achievement of equal access to quality health care at a reasonable cost is a priority of the Federal Government.

(2) The massive infusion of Federal funds into the existing health care system has contributed to inflationary increases in the cost of health care and failed to produce an adequate supply or distribution of health resources, and consequently has not made possible equal access for everyone to such resources.

(3) The many and increasing responses to these problems by the public sector (Federal, State, and local), and the private sector have not resulted in a comprehensive, rational approach to the present—

(A) lack of uniformly effective methods of delivering health care;

(B) maldistribution of health care facilities and manpower; and

(C) increasing cost of health care.

(4) Increases in the cost of health care, particularly of hospital stays, have been uncontrollable and inflationary, and there are presently inadequate incentives for the use of appropriate alternative levels of health care, and for the substitution of ambulatory and intermediate care for inpatient hospital care.

(5) Since the health care provider is one of the most important participants in any health care delivery system, health policy must address the legitimate needs and concerns of the provider if it is to achieve meaningful results; and, thus, it is imperative that the provider be encouraged to play an active role in developing health policy at all levels.

(6) Large segments of the public are lacking in basic knowledge regarding proper personal health care and methods for effective use of available health services.

(b) In recognition of the magnitude of the problems described in subsection (a) and the urgency placed on their solution, it is the purpose of this Act to facilitate the development of recommendations for a national health planning policy, to augment areawide and State planning for health services, manpower, and facilities, and to authorize financial assistance for the development of resources to further that policy.

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REVISION OF HEALTH PLANNING PROGRAMS UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 3. The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XV—NATIONAL HEALTH PLANNING AND DEVELOPMENT

"PART A—NATIONAL GUIDELINES FOR HEALTH PLANNING

"NATIONAL GUIDELINES FOR HEALTH PLANNING

"SEC. 1501. (a) The Secretary shall, within eighteen months after the date of the enactment of this title, by regulation issue guidelines concerning national health planning policy and shall, as he deems appropriate, by regulation revise such guidelines. Regulations under this subsection shall be promulgated in accordance with section 553 of title 5, United States Code.

"(b) The Secretary shall include in the guidelines issued under subsection (a) the following:

"(1) Standards respecting the appropriate supply, distribution, and organization of health resources.

"(2) A statement of national health planning goals developed after consideration of the priorities, set forth in section 1502, which goals, to the maximum extent practicable, shall be expressed in quantitative terms.

"(c) In issuing guidelines under subsection (a) the Secretary shall consult with and solicit recommendations and comments from the health systems agencies designated under part B, the State health planning and development agencies designated under part C, the Statewide Health Coordinating Councils established under part C, associations and specialty societies representing medical and other health care providers, and the National Council on Health Planning and Development established by section 1503.

"NATIONAL HEALTH PRIORITIES

"SEC. 1502. The Congress finds that the following deserve priority consideration in the formulation of national health planning goals and in the development and operation of Federal, State, and area health planning and resources development programs:

"(1) The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas.

"(2) The development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy services).

"(3) The development of medical group practices (especially those whose services are appropriately coordinated or integrated with institutional health services), health maintenance organizations, and other organized systems for the provision of health care.

"(4) *The training and increased utilization of physician assistants, especially nurse clinicians.*

"(5) *The development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions.*

"(6) *The promotion of activities to achieve needed improvements in the quality of health services, including needs identified by the review activities of Professional Standards Review Organizations under part B of title XI of the Social Security Act.*

"(7) *The development by health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis.*

"(8) *The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services.*

"(9) *The adoption of uniform cost accounting, simplified reimbursement, and utilization reporting systems and improved management procedures for health service institutions.*

"(10) *The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services.*

"NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

"SEC. *1503. (a) There is established in the Department of Health, Education, and Welfare an advisory council to be known as the National Council on Health Planning and Development (hereinafter in this section referred to as the 'Council'). The Council shall advise, consult with, and make recommendations to, the Secretary with respect to (1) the development of national guidelines under section 1501, (2) the implementation and administration of this title and title XVI, and (3) an evaluation of the implications of new medical technology for the organization, delivery, and equitable distribution of health care services.*

"*(b)(1) The Council shall be composed of fifteen members. The Chief Medical Director of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, and the Assistant Secretary for Health of the Department of Health, Education, and Welfare shall be nonvoting ex officio members of the Council. The remaining members shall be appointed by the Secretary and shall be persons who, as a result of their training, experience, or attainments, are exceptionally well qualified to assist in carrying out the functions of the Council. Of the voting members, not less than five shall be persons who are not providers of health services, not more than three shall be officers or employees of the Federal Government, not less than three shall be members of governing bodies of health systems agencies designated under part B, and not less than three shall be members of Statewide Health Coordinating Councils under section 1524. The two major political parties shall have equal representation among the voting members on the Council.*

"(2) *The term of office of voting members of the Council shall be six years, except that—*

"(A) *of the members first appointed to the Council, four shall be appointed for terms of two years and four shall be appointed for terms of four years, as designated by the Secretary at the time of appointment; and*

"(B) *any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.*

A member may serve after the expiration of his term until his successor has taken office.

"(3) *The chairman of the Council shall be selected by the voting members from among their number. The term of office of the chairman of the Council shall be the lesser of three years or the period remaining in his term of office as a member of the Council.*

"(c)(1) *Except as provided in paragraph (2), the members of the Council shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.*

"(2) *Members of the Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Council.*

"(3) *While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.*

"(d) *The Council may appoint, fix the pay of, and prescribe the functions of such personnel as are necessary to carry out its functions. In addition, the Council may procure the services of experts and consultants as authorized by section 3109 of title 5, United States Code, but without regard to the last sentence of such section.*

"(e) *The provisions of section 14(a) of the Federal Advisory Committee Act shall not apply with respect to the Council.*

"PART B—HEALTH SYSTEMS AGENCIES

"HEALTH SERVICE AREAS

"SEC. *1511. (a) There shall be established, in accordance with this section, health service areas throughout the United States with respect to which health systems agencies shall be designated under section 1515. Each health service area shall meet the following requirements:*

"(1) *The area shall be a geographic region appropriate for the effective planning and development of health services, determined on the basis of factors including population and the availability of resources to provide all necessary health services for residents of the area.*

"(2) To the extent practicable, the area shall include at least one center for the provision of highly specialized health services.

"(3) The area, upon its establishment, shall have a population of not less than five hundred thousand or more than three million; except that—

"(A) the population of an area may be more than three million if the area includes a standard metropolitan statistical area (as determined by the Office of Management and Budget) with a population of more than three million, and

"(B) the population of an area may—

"(i) be less than five hundred thousand if the area comprises an entire State which has a population of less than five hundred thousand, or

"(ii) be less than—

"(I) five hundred thousand (but not less than two hundred thousand) in unusual circumstances (as determined by the Secretary), or

"(II) two hundred thousand in highly unusual circumstances (as determined by the Secretary),

if the Governor of each State in which the area is located determines, with the approval of the Secretary, that the area meets the other requirements of this subsection.

"(4) To the maximum extent feasible, the boundaries of the area shall be appropriately coordinated with the boundaries of areas designated under section 1152 of the Social Security Act for Professional Standards Review Organizations, existing regional planning areas, and State planning and administrative areas.

The boundaries of a health service area shall be established so that, in the planning and development of health services to be offered within the health service area, any economic or geographic barrier to the receipt of such services in nonmetropolitan areas is taken into account. The boundaries of health service areas shall be established so as to recognize the differences in health planning and health services development needs between nonmetropolitan and metropolitan areas. Each standard metropolitan statistical area shall be entirely within the boundaries of one health service area, except that if the Governor of each State in which a standard metropolitan statistical area is located determines, with the approval of the Secretary, that in order to meet the other requirements of this subsection a health service area should contain only part of the standard metropolitan statistical area, then such statistical area shall not be required to be entirely within the boundaries of such health service area.

"(b)(1) Within thirty days following the date of the enactment of this title, the Secretary shall simultaneously give to the Governor of each State written notice of the initiation of proceedings to establish health service areas throughout the United States. Each notice shall contain the following:

"(A) A statement of the requirement (in subsection (a)) of the establishment of health service areas throughout the United States.

"(B) A statement of the criteria prescribed by subsection (a) for health service areas and the procedures prescribed by this subsection for the designation of health service area boundaries.

"(C) A request that the Governor receiving the notice (i) designate the boundaries of health service areas within his State, and, where appropriate and in cooperation with the Governors of adjoining States, designate the boundaries within his State of health service areas located both in his State and in adjoining States, and (ii) submit (in such form and manner as the Secretary shall specify) to the Secretary, within one hundred and twenty days of the date of enactment of this title, such boundary designations together with comments, submitted by the entities referred to in paragraph (2), with respect to such designations.

At the time such notice is given under this paragraph to each Governor, the Secretary shall publish as a notice in the Federal Register a statement of the giving of his notice to the Governor and the criteria and procedures contained in such notice.

"(2) Each State's Governor shall in the development of boundaries for health service areas consult with and solicit the views of the chief executive officer or agency of the political subdivisions within the State, the State agency which administers or supervises the administration of the State's health planning functions under a State plan approved under section 314(a), each entity within the State which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b), and each regional medical program established in the State under title IX.

"(3)(A) Within two hundred and ten days after the date of enactment of this title, the Secretary shall publish as a notice in the Federal Register the health service area boundary designations. The boundaries for health service areas submitted by the Governors shall, except as otherwise provided in subparagraph (B), constitute upon their publication in the Federal Register the boundaries for such health service areas.

"(B)(i) If the Secretary determines that a boundary submitted to him for a health service area does not meet the requirements of subsection (a), he shall, after consultation with the Governor who submitted such boundary, make such revision in the boundary for such area (and as necessary, in the boundaries for adjoining health service areas) as may be necessary to meet such requirements and publish such revised boundary (or boundaries); and the revised boundary (or boundaries) shall upon publication in the Federal Register constitute the boundary (or boundaries) for such health service area (or areas). The Secretary shall notify the Governor of each State in which is located a health service area whose boundary is revised under this clause of the boundary revision and the reasons for such revision.

"(ii) In the case of areas of the United States not included within the boundaries for health service areas submitted to the Secretary as requested under the notice under paragraph (1), the Secretary shall establish and publish in the Federal Register health service area boundaries which include such areas. The Secretary shall notify the Governor of each State in which is located a health service area the

boundary for which is established under this clause of the boundaries established. In carrying out the requirement of this clause, the Secretary may make such revisions in boundaries submitted under subparagraph (A) as he determines are necessary to meet the requirement of subsection (a) for the establishment of health service areas throughout the United States.

"(4) The Secretary shall review on a continuing basis and at the request of any Governor or designated health systems agency the appropriateness of the boundaries of the health service areas established under paragraph (3) and, if he determines that a boundary for a health service area no longer meets the requirements of subsection (a), he may revise the boundaries in accordance with the procedures prescribed by paragraph (3)(B)(ii) for the establishment of boundaries of health service areas which include areas not included in boundaries submitted by the Governors. If the Secretary acts on his own initiative to revise the boundaries of any health service area, he shall consult with the Governor of the appropriate State or States, the entities referred to in paragraph (2), the appropriate health systems agency or agencies designated under part B and the appropriate Statewide Health Coordinating Council established under part C. A request for boundary revision shall be made only after consultation with the Governor of the appropriate State or States, the entities referred to in paragraph (2), the appropriate designated health systems agencies, and the appropriate established Statewide Health Coordinating Council and shall include the comments concerning the revision made by the entities consulted in requesting the revision.

"(5) Within one year after the date of the enactment of this title the Secretary shall complete the procedures for the initial establishment of the boundaries of health service areas which (except as provided in section 1535) include the geographic area of all the States.

"(c) Notwithstanding any other requirement of this section, an area—

"(1) for which has been developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 314(b), and

"(2) which otherwise meets the requirements of subsection (a), shall be designated by the Secretary as a health service area unless the Governor of any State in which such area is located, upon a finding that another area is a more appropriate region for the effective planning and development of health resources, waives such requirement.

"HEALTH SYSTEMS AGENCIES

"SEC. 1512. (a) Definition.—For purposes of this title, the term 'health systems agency' means an entity which is organized and operated in the manner described in subsection (b) and which is capable, as determined by the Secretary, of performing each of the functions described in section 1513. The Secretary shall by regulation establish standards and criteria for the requirements of subsection (b) and section 1513.

"(b)(1) *Legal Structure.—A health systems agency for a health service area shall be—*

"(A) *a nonprofit private corporation (or similar legal mechanism such as a public benefit corporation) which is incorporated in the State in which the largest part of the population of the health service area resides, which is not a subsidiary of, or otherwise controlled by, any other private or public corporation or other legal entity, and which only engages in health planning and development functions;*

"(B) *a public regional planning body if (i) it has a governing board composed of a majority of elected officials of units of general local government or it is authorized by State law (in effect before the date of enactment of this subsection) to carry out health planning and review functions such as those described in section 1513, and (ii) its planning area is identical to the health service area; or*

"(C) *a single unit of general local government if the area of the jurisdiction of that unit is identical to the health service area.*

A health systems agency may not be an educational institution or operate such an institution.

"(2) *Staff.—*

"(A) *Expertise.—A health systems agency shall have a staff which provides the agency with expertise in at least the following: (i) Administration, (ii) the gathering and analysis of data, (iii) health planning, and (iv) development and use of health resources. The functions of planning and of development of health resources shall be conducted by staffs with skills appropriate to each function.*

"(B) *Size and employment.—The size of the professional staff of any health systems agency shall be not less than five, except that if the quotient of the population (rounded to the next highest one hundred thousand) of the health service area which the agency serves divided by one hundred thousand is greater than five, the minimum size of the professional staff shall be the lesser of (i) such quotient, or (ii) twenty-five. The members of the staff shall be selected, paid, promoted, and discharged in accordance with such system as the agency may establish, except that the rate of pay for any position shall not be less than the rate of pay prevailing in the health service area for similar positions in other public or private health service entities. If necessary for the performance of its functions, a health systems agency may employ consultants and may contract with individuals and entities for the provision of services. Compensation for consultants and for contracted services shall be established in accordance with standards established by regulation by the Secretary.*

"(3) *Governing Body.—*

"(A) *In general.—A health systems agency which is a public regional planning body or unit of general local government shall, in addition to any other governing body, have a governing body for health planning, which is established in accordance with subparagraph (C), which shall have the responsibilities prescribed*

by subparagraph (B), and which has exclusive authority to perform for the agency the functions described in section 1513. Any other health systems agency shall have a governing body composed, in accordance with subparagraph (C), of not less than ten members and of not more than thirty members, except that the number of members may exceed thirty if the governing body has established another unit (referred to in this paragraph as an 'executive committee') composed, in accordance with subparagraph (C), of not more than twenty-five members of the governing body and has delegated to that unit the authority to take such action (other than the establishment and revision of the plans referred to in subparagraph (B) (ii)) as the governing body is authorized to take.

"(B) Responsibilities.—The governing body—

"(i) shall be responsible for the internal affairs of the health systems agency, including matters relating to the staff of the agency, the agency's budget, and procedures and criteria (developed and published pursuant to section 1532) applicable to its functions under subsections (e), (f), and (g) of section 1513;

"(ii) shall be responsible for the establishment of the health systems plan and annual implementation plan required by section 1513(b);

"(iii) shall be responsible for the approval of grants and contracts made and entered into under section 1513(c)(3);

"(iv) shall be responsible for the approval of all actions taken pursuant to subsections (e),(f),(g),(h), of section 1513;

"(v) shall (I) issue an annual report concerning the activities of the agency, (II) include in that report the health systems plan and annual implementation plan developed by the agency, and a listing of the agency's income, expenditures, assets, and liabilities, and (III) make the report readily available to the residents of the health service area and the various communications media serving such area;

"shall reimburse its members for their reasonable costs incurred in attending meetings of the governing body;

"(vi) shall meet at least once in each calendar quarter of a year and shall meet at least two additional times in a year unless its executive committee meets at least twice in that year; and

"(vii) shall (I) conduct its business meetings in public, (II) give adequate notice to the public of such meetings, and (III) make its records and data available, upon request, to the public.

The governing body (and executive committee (if any)) of a health systems agency shall act only by vote of a majority of its members present and voting at a meeting called upon adequate notice to all of its members and at which a quorum is in attendance. A quorum for a governing body and executive committee shall be not less than one-half of its members.

"(C) *Composition.—The membership of the governing body and the executive committee (if any) of an agency shall meet the following requirements:*

"(i) *A majority (but not more than 60 per centum of the members) shall be residents of the health service area served by the entity who are consumers of health care and who are not (nor within the twelve months preceding appointment been) providers of health care and who are broadly representative of the social, economic, linguistic and racial populations, geographic areas of the health service area, and major purchasers of health care.*

"(ii) *The remainder of the members shall be residents of the health service area served by the agency who are providers of health care and who represent (I) physicians (particularly practicing physicians), dentists, nurses, and other health professionals, (II) health care institutions (particularly hospitals, long-term care facilities, and health maintenance organizations), (III) health care insurers, (IV) health professional schools, and (V) the allied health professions. Not less than one-third of the providers of health care who are members of the governing body or executive committee of a health systems agency shall be direct providers of health care (as described in section 1531(3)).*

"(iii) *The membership shall—*

"(I) *include (either through consumer or provider members) public elected officials and other representatives of governmental authorities in the agency's health service area and representatives of public and private agencies in the area concerned with health,*

"(II) *include a percentage of individuals who reside in nonmetropolitan areas within the health service area which percentage is equal to the percentage of residents of the area who reside in nonmetropolitan areas, and*

"(III) *if the health systems agency serves an area in which there is located one or more hospitals or other health care facilities of the Veterans' Administration, include, as an ex officio member, an individual whom the Chief Medical Director of the Veterans' Administration shall have designated for such purpose, and if the agency serves an area in which there is located one or more qualified health maintenance organizations (within the meaning of section 1310), include at least one member who is representative of such organizations.*

"(iv) *If, in the exercise of its functions, a governing body or executive committee appoints a subcommittee of its members or an advisory group, it shall, to the extent practicable, make its appointments to any such subcommittee or group in such a manner as to provide the representation on such subcommittee or group described in this subparagraph.*

"(4) *Individual Liability.—No individual who, as a member or employee of a health systems agency, shall, by reason of his performance of any duty, function, or activity required of, or authorized to be un-*

dertaken by, the agency under this title, be liable for the payment of damages under any law of the United States or any State (or political subdivision thereof), if he has acted within the scope of such duty, function, or activity, has exercised due care, and has acted, with respect to that performance, without malice toward any person affected by it.

"*(5) Private Contributions.—No health systems agency may accept any funds or contributions of services or facilities from any individual or private entity which has a financial, fiduciary, or other direct interest in the development, expansion, or support of health resources unless, in the case of an entity, it is an organization described in section 509(a) of the Internal Revenue Code of 1954 and is not directly engaged in the provision of health care in the health service area of the agency. For purposes of this paragraph, an entity shall not be considered to have such an interest solely on the basis of its providing (directly or indirectly) health care for its employees.*

"*(6) Other Requirements.—Each health system agency shall—*

"*(A) make such reports, in such form and containing such information, concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;*

"*(B) provide for such fiscal control and fund accounting procedures as the Secretary may require to assure proper disbursement of, and accounting for, amounts received from the Secretary under this title and section 1640; and*

"*(C) permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records pertinent to the disposition of amounts received from the Secretary under this title and section 1640.*

"*(c) Subarea Councils.—A health systems agency may establish subarea advisory councils representing parts of the agencies' health service area to advise the governing body of the agency on the performance of its functions. The composition of a subarea advisory council shall conform to the requirements of subsection (b)(3)(C).*

"*FUNCTIONS OF HEALTH SYSTEMS AGENCIES*

Sec. 1513. (a) For the purpose of—

"*(1) improving the health of residents of a health service area,*

"*(2) increasing the accessibility (including overcoming geographic, architectural, and transportation barriers), acceptability, continuity, and quality of the health services provided them,*

"*(3) restraining increases in the cost of providing them health services, and*

"*(4) preventing unnecessary duplication of health resources,*

each health systems agency shall have as its primary responsibility the provision of effective health planning for its health service area and the promotion of the development within the area of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency. To meet its primary responsibility, a health systems agency shall carry

out the functions described in subsections (b) through (g) of this section.

"*(b) In providing health planning and resources development for its health service area, a health systems agency shall perform the following functions:*

"*(1) The agency shall assemble and analyze data concerning—*

"*(A) the status (and its determinants) of the health of the residents of its health service area,*

"*(B) the status of the health care delivery system in the area and the use of that system by the residents of the area,*

"*(C) the effect the area's health care delivery system has on the health of the residents of the area,*

"*(D) the number, type, and location of the area's health resources, including health services, manpower, and facilities,*

"*(E) the patterns of utilization of the area's health resources, and*

"*(F) the environmental and occupational exposure factors affecting immediate and long-term health conditions.*

In carrying out this paragraph, the agency shall to the maximum extent practicable use existing data (including data developed under Federal health programs) and coordinate its activities with the cooperative system provided for under section 306(e).

"*(2) The agency shall, after appropriate consideration of the recommended national guidelines for health planning policy issued by the Secretary under section 1501, the priorities set forth in section 1502, and the data developed pursuant to paragraph (1), establish, annually review, and amend as necessary a health systems plan (hereinafter in this title referred to as the 'HSP') which shall be a detailed statement of goals (A) describing a healthful environment and health systems in the area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area; (B) which are responsive to the unique needs and resources of the area; and (C) which take into account and is consistent with the national guidelines for health planning policy issued by the Secretary under section 1501 respecting supply, distribution, and organization of health resources and services. Before establishing an HSP, a health systems agency shall conduct a public hearing on the proposed HSP and shall give interested persons an opportunity to submit their views orally and in writing. Not less than thirty days prior to such hearing, the agency shall publish in at least two newspapers of general circulation throughout its health service area a notice of its consideration of the proposed HSP, the time and place of the hearing, the place at which interested persons may consult the HSP in advance of the hearing, and the place and period during which to submit written comments to the agency on the HSP.*

"*(3) The agency shall establish, annually review, and amend as necessary an annual implementation plan (hereinafter in this title referred to as the 'AIP') which describes objectives which*

will achieve the goals of the HSP and priorities among the objectives. In establishing the AIP, the agency shall give priority to those objectives which will maximally improve the health of the residents of the area, as determined on the basis of the relation of the cost of attaining such objectives to their benefits, and which are fitted to the special needs of the area.

"(4) The agency shall develop and publish specific plans and projects for achieving the objectives established in the AIP.

"(c) A health systems agency shall implement its HSP and AIP, and in implementing the plans it shall perform at least the following functions:

"(1) The agency shall seek, to the extent practicable, to implement its HSP and AIP with the assistance of individuals and public and private entities in its health service area.

"(2) The agency may provide, in accordance with the priorities established in the AIP, technical assistance to individuals and public and private entities for the development of projects and programs which the agency determines are necessary to achieve the health systems described in the HSP, including assistance in meeting the requirements of the agency prescribed under section 1532(b).

"(3) The agency shall, in accordance with the priorities established in the AIP, make grants to public and nonprofit private entities and enter into contracts with individuals and public and nonprofit private entities to assist them in planning and developing projects and programs which the agency determines are necessary for the achievement of the health systems described in the HSP. Such grants and contracts shall be made from the Area Health Services Development Fund of the agency established with funds provided under grants made under section 1640. No grant or contract under this subsection may be used (A) to pay the costs incurred by an entity or individual in the delivery of health services (as defined in regulations of the Secretary), or (B) for the cost of construction or modernization of medical facilities. No single grant or contract made or entered into under this paragraph shall be available for obligation beyond the one year period beginning on the date the grant or contract was made or entered into. If an individual or entity receives a grant or contract under this paragraph for a project or program, such individual or entity may receive only one more such grant or contract for such project or program.

"(d) Each health systems agency shall coordinate its activities with—

"(1) each Professional Standards Review Organization (designated under section 1152 of the Social Security Act),

"(2) entities referred to in paragraphs (1) and (2) of section 204(a) of the Demonstration Cities and Metropolitan Development Act of 1966 and regional and local entities the views of which are required to be considered under regulations prescribed under section 403 of the Intergovernmental Cooperation Act of 1968 to carry out section 401(b) of such Act,

"(3) other appropriate general or special purpose regional planning or administrative agencies, and

"(4) any other appropriate entity,

"in the health system agency's health service area. The agency shall, as appropriate, secure data from them for use in the agency's planning and development activities, enter into agreements with them which will assure that actions taken by such entities which alter the area's health system will be taken in a manner which is consistent with the HSP and the AIP in effect for the area, and, to the extent practicable, provide technical assistance to such entities.

"(e)(1)(A) Except as provided in subparagraph (B), each health systems agency shall review and approve or disapprove each proposed use within its health service area of Federal funds—

"(i) appropriated under this Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for grants, contracts, loans, or loan guarantees for the development, expansion, or support of health resources; or

"(ii) made available by the State in which the health service area is located (from an allotment to the State under an Act referred to in clause (i)) for grants or contracts for the development, expansion, or support of health resources.

(B) A health systems agency shall not review and approve or disapprove the proposed use within its health service area of Federal funds appropriated for grants or contracts under title IV, VII, or VIII of this Act unless the grants or contracts are to be made, entered into, or used to support the development of health resources intended for use in the health service area or the delivery of health services. In the case of a proposed use within the health service area of a health systems agency of Federal funds described in subparagraph (A) by an Indian tribe or intertribal Indian organization for any program or project which will be located within or will specifically serve—

"(i) a federally-recognized Indian reservation,

"(ii) any land area in Oklahoma which is held in trust by the United States for Indians or which is a restricted Indian-owned land area, or

"(iii) a Native village in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act),

a health systems agency shall only review and comment on such proposed use.

"(2) Notwithstanding any other provision of this Act or any other Act referred to in paragraph (1), the Secretary shall allow a health systems agency sixty days to make the review required by such paragraph. If an agency disapproves a proposed use in its health service area of Federal funds described in paragraph (1), the Secretary may not make such Federal funds available for such use until he has made, upon request of the entity making such proposal, a review of the agency decision. In making any such review of any agency decision, the Secretary shall give the appropriate State health planning and development agency an opportunity to consider the decision of the health systems agency and to submit to the Secretary its com-

ments on the decision. The Secretary, after taking into consideration such State agency's comments (if any), may make such Federal funds available for such use, notwithstanding the disapproval of the health systems agency. Each such decision by the Secretary to make funds available shall be submitted to the appropriate health systems agency and State health planning and development agency and shall contain a detailed statement of the reasons for the decision.

"(3) Each health systems agency shall provide each Indian tribe or inter-tribal Indian organization which is located within the agency's health service area information respecting the availability of the Federal funds described in the first sentence of this subsection.

"(f) To assist State health planning and development agencies in carrying out their functions under paragraphs (4) and (5) of section 1523(a) each health systems agency shall review and make recommendations to the appropriate State health planning and development agency respecting the need for new institutional health services proposed to be offered or developed in the health service area of such health systems agency.

"(g)(1) Except as provided in paragraph (2), each health systems agency shall review on a periodic basis (but at least every five years) all institutional health services offered in the health service area of the agency and shall make recommendations to the State health planning and development agency designated under section 1521 for each State in which the health systems agency's health service area is located respecting the appropriateness in the area of such services.

"(2) A health systems agency shall complete its initial review of existing institutional health services within three years after the date of the agency's designation under section 1515(c).

"(h) Each health systems agency shall annually recommend to the State health planning and development agency designated for each State in which the health systems agency's health service area is located (1) projects for the modernization, construction, and conversion of medical facilities in the agency's health service area which projects will achieve the HSP and AIP of the health systems agency, and (2) priorities among such projects.

"ASSISTANCE TO ENTITIES DESIRING TO BE DESIGNATED AS HEALTH SYSTEMS AGENCIES

"SEC. 1514. The Secretary may provide all necessary technical and other nonfinancial assistance (including the preparation of prototype plans of organization and operation) to nonprofit private entities (including entities presently receiving financial assistance under section 314(b) or title IX or as experimental health service delivery systems under section 304) which—

"(1) express a desire to be designated as health systems agencies, and

"(2) the Secretary determines have a potential to meet the requirements of a health systems agency specified in sections 1512 and 1513,

to assist such entities in developing applications to be submitted to the Secretary under section 1515 and otherwise in preparing to meet

the requirements of this part for designation as a health systems agency.

"DESIGNATION OF HEALTH SYSTEMS AGENCIES

"SEC. 1515. (a) At the earliest practicable date after the establishment under section 1511 of health service areas (but not later than eighteen months after the date of enactment of this title), the Secretary shall enter into agreements in accordance with this section for the designation of health systems agencies for such areas.

"(b)(1) The Secretary may enter into agreements with entities under which the entities would be designated as the health systems agencies for health service areas on a conditional basis with a view to determining their ability to meet the requirements of section 1512(b), and their capacity to perform the functions prescribed by section 1513.

"(2) During any period of conditional designation (which may not exceed 24 months), the Secretary may require that the entity conditionally designated meet only such of the requirements of section 1512(b) and perform only such of the functions prescribed by section 1513 as he determines such entity to be capable of meeting and performing. The number and type of such requirements and functions shall, during the period of conditional designation, be progressively increased as the entity conditionally designated becomes capable of added responsibility so that, by the end of such period, the agency may be considered for designation under subsection (c).

"(3) Any agreement under which any entity is conditionally designated as a health systems agency may be terminated by such entity upon ninety days notice to the Secretary or by the Secretary upon ninety days notice to such entity.

"(4) The Secretary may not enter into an agreement with any entity under paragraph (1) for conditional designation as a health systems agency for a health service area until—

"(A) the entity has submitted an application for such designation which contains assurances satisfactory to the Secretary that upon completion of the period of conditional designation the applicant will be organized and operated in the manner described in section 1512(b) and will be qualified to perform the functions prescribed by section 1513;

"(B) a plan for the orderly assumption and implementation of the functions of a health systems agency has been received from the applicant and approved by the Secretary; and

"(C) the Secretary has consulted with the Governor of each State in which such health service area is located and with such other State and local officials as he may deem appropriate, with respect to such designation.

In considering such applications, the Secretary shall give priority to an application which has been recommended for approval by each entity which has developed a plan referred to in section 314(b) for all or part of the health service area with respect to which the application was submitted, and each regional medical program established in such area under title IX.

"(c)(1) The Secretary shall enter into an agreement with an entity for its designation as a health systems agency if, on the basis of an application under paragraph (2) (and, in the case of an entity con-

ditionally designated, on the basis of its performance during a period of conditional designation under subsection (b) as a health systems agency for a health service area), the Secretary determines that such entity is capable of fulfilling, in a satisfactory manner, the requirements and functions of a health systems agency. Any such agreement under this subsection with an entity may be renewed in accordance with paragraph (3), shall contain such provisions respecting the requirements of sections 1512(b) and 1513 and such conditions designed to carry out the purpose of this title, as the Secretary may prescribe, and shall be for a term of not to exceed twelve months; except that, prior to the expiration of such term, such agreement may be terminated—

"(A) by the entity at such time and upon such notice to the Secretary as he may by regulation prescribe, or

"(B) by the Secretary, at such time and upon such notice to the entity as the Secretary may by regulation prescribe, if the Secretary determines that the entity is not complying with or effectively carrying out the provisions of such agreement.

"(2) The Secretary may not enter into an agreement with any entity under paragraph (1) for designation as a health systems agency for a health service area unless the entity has submitted an application to the Secretary for designation as a health systems agency, and the Governor of each State in which the area is located has been consulted respecting such designation of such entity. Such an application shall contain assurances satisfactory to the Secretary that the applicant meets the requirements of section 1512(b) and is qualified to perform or is performing the functions prescribed by section 1513. In considering such applications, the Secretary shall give priority to an application which has been recommended for approval by (A) each entity which has developed a plan referred to in section 314(b) for all or part of the health service area with respect to which the application was submitted, and (B) each regional medical program established in such area under title IX.

"(3) An agreement under this subsection for the designation of a health systems agency may be renewed by the Secretary for a period not to exceed twelve months if upon review (as provided in section 1535) of the agency's operation and performance of its functions, he determines that it has fulfilled, in a satisfactory manner, the functions of a health systems agency prescribed by section 1513 and continues to meet the requirements of section 1512(b).

"(d) If a designation under subsection (b) or (c) of a health systems agency for a health services area is terminated before the date prescribed for its expiration, the Secretary shall, upon application and in accordance with subsection (b) or (c) (as the Secretary determines appropriate), enter into a designation agreement with another entity to be the health systems agency for such area.

"PLANNING GRANTS

"SEC. 1516. (a) The Secretary shall make in each fiscal year a grant to each health systems agency with which there is in effect a designation agreement under subsection (b) or (c) of section 1515. A grant under this subsection shall be made on such conditions as the Secre-

tary determines is appropriate, shall be used by a health systems agency for compensation of agency personnel, collection of data, planning, and the performance of the functions of the agency, and shall be available for obligation for a period not to exceed the period for which its designation agreement is entered into or renewed (as the case may be). A health systems agency may use funds under a grant under this subsection to make payments under contracts with other entities to assist the health systems agency in the performance of its functions; but it shall not use funds under such a grant to make payments under a grant or contract with another entity for the development or delivery of health services or resources.

"(b) (1) The amount of any grant under subsection (a) to a health systems agency designated under section 1515(b) shall be determined by the Secretary. The amount of any grant under subsection (a) to any health systems agency designated under section 1515(c) shall be the lesser of—

"(A) the product of $0.50 and the population of the health service area for which the agency is designated, or

"(B) $3,750,000,

unless the agency would receive a greater amount under paragraph (2) or (3).

"(2)(A) If the application of a health systems agency for such a grant contains assurances satisfactory to the Secretary that the agency will expend or obligate in the period in which such grant will be available for obligation non-Federal funds meeting the requirements of subparagraph (B) for the purposes for which such grant may be made, the amount of such grant shall be the sum of—

"(i) the amount determined under paragraph (1), and

"(ii) the lesser of (I) the amount of such non-Federal funds with respect to which the assurances were made, or (II) the product of $0.25 and the population of the health service area for which the agency is designated.

"(B) The non-Federal funds which an agency may use for the purpose of obtaining a grant under subsection (a) which is computed on the basis of the formula prescribed by subparagraph (A) shall—

"(i) not include any funds contributed to the agency by any individual or private entity which has a financial, fiduciary, or other direct interest in the development, expansion, or support of health resources, and

"(ii) be funds which are not paid to the agency for the performance of particular services by it and which are otherwise contributed to the agency without conditions as to their use other than the condition that the funds shall be used for the purposes for which a grant made under this section may be used.

"(3) The amount of a grant under subsection (a) to a health systems agency designated under section 1515(c) may not be less than $175,000.

"(c)(1) For the purpose of making payments pursuant to grants made under subsection (a), there are authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1975, $90,000,000 for the fiscal year ending June 30, 1976, and $125,000,000 for the fiscal year ending June 30, 1977.

"(2) *Notwithstanding subsection (b), if the total of the grants to be made under this section to health systems agencies for any fiscal year exceeds the total of the amounts appropriated under paragraph (1) for that fiscal year, the amount of the grant for that fiscal year to each health systems agency shall be an amount which bears the same ratio to the amount determined for that agency for that fiscal year under subsection (b) as the total of the amounts appropriated under paragraph (1) for that fiscal year bears to the total amount required to make grants to all health systems agencies in accordance with the applicable provision of subsection (b); except that the amount of any grant to a health systems agency for any fiscal year shall not be less than $175,000, unless the amount appropriated for that fiscal year under paragraph (1) is less than the amount required to make such a grant to each health systems agency.*

"PART C—STATE HEALTH PLANNING AND DEVELOPMENT

"DESIGNATION OF STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

"SEC. 1521. *(a) For the purpose of the performance within each State of the health planning and development functions prescribed by section 1523, the Secretary shall enter into and renew agreements (described in subsection (b)) for the designation of a State health planning and development agency for each State other than a State for which the Secretary may not under subsection (d) enter into, continue in effect, or renew such an agreement.*

(b) (1) A designation agreement under subsection (a) is an agreement with the Governor of a State for the designation of an agency (selected by the Governor) of the government of that State as the State health planning and development agency (hereinafter in this part referred to as the 'State Agency') to administer the State administrative program prescribed by section 1522 and to carry out the State's health planning and development functions prescribed by section 1523. The Secretary may not enter into such an agreement with the Governor of a State unless—

"(A) *there has been submitted by the State a State administrative program which has been approved by the Secretary,*

"(B) *an application has been made to the Secretary for such an agreement and the application contains assurances satisfactory to the Secretary that the agency selected by the Governor for designation as the State Agency has the authority and resources to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 1523, and*

"(C) *in the case of an agreement entered into under paragraph (3), there has been established for the State a Statewide Health Coordinating Council meeting the requirements of section 1524.*

"(2) (A) *The agreement entered into with a Governor of a State under subsection (a) may provide for the designation of a State Agency on a conditional basis with a view to determining the capacity of the designated State Agency to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 1523. The Secretary shall re-*

quire as a condition to the entering into of such an agreement that the Governor submit on behalf of the agency to be designated a plan for the agency's orderly assumption and implementation of such functions.

"(B) The period of an agreement described in subparagraph (A) may not exceed twenty-four months. During such period the Secretary may require that the designated State Agency perform only such of the functions of a State Agency prescribed by section 1523 as he determines it is capable of performing. The number and type of such functions shall, during such period, be progressively increased as the designated State Agency becomes capable of added responsibility, so that by the end of such period the designated State Agency may be considered for designation under paragraph (3).

"(C) Any agreement with a Governor of a State entered into under subparagraph (A) may be terminated by the Governor upon ninety days' notice to the Secretary or by the Secretary upon ninety days' notice to the Governor.

"(3) If, on the basis of an application for designation as a State Agency (and, in the case of an agency conditionally designated under paragraph (2), on the basis of its performance under an agreement with a Governor of a State entered into under such paragraph), the Secretary determines that the agency is capable of fulfilling, in a satisfactory manner, the responsibilities of a State Agency, he shall enter into an agreement with the Governor of the State designating the agency as the State Agency for the State. No such agreement may be made unless an application therefor is submitted to, and approved by, the Secretary. Any such agreement shall be for a term of not to exceed twelve months, except that, prior to the expiration of such term, such agreement may be terminated—

"(A) by the Governor at such time and upon such notice to the Secretary as he may by regulation prescribe, or

"(B) by the Secretary, at such time and upon such notice to the Governor as the Secretary may by regulation prescribe, if the Secretary determines that the designated State Agency is not complying with or effectively carrying out the provisions of such agreement.

An agreement under this paragraph shall contain such provisions as the Secretary may require to assure that the requirements of this part respecting State Agencies are complied with.

"(4) An agreement entered into under paragraph (3) for the designation of a State agency may be renewed by the Secretary for a period not to exceed twelve months if he determines that it has fulfilled, in a satisfactory manner, the responsibilities of a State Agency during the period of the agreement to be renewed and if the applicable State administrative program continues to meet the requirements of section 1522.

"(c) If a designation agreement with the Governor of a State entered into under subsection (b)(2) or (b)(3) is terminated before the date prescribed for its expiration, the Secretary shall, upon application and in accordance with subsection (b)(2), or (b)(3) (as the Secretary determines appropriate), enter into another agreement with the Governor for the designation of a State Agency.

"(d) If, upon the expiration of the fourth fiscal year which begins after the calendar year in which the National Health Policy, Planning, and Resources Development Act of 1974 is enacted, an agreement under this section for the designation of a State Agency for a State is not in effect, the Secretary may not make any allotment, grant, loan, or loan guarantee, or enter into any contract, under this Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 for the development, expansion, or support of health resources in such State until such time as such an agreement is in effect.

"STATE ADMINISTRATIVE PROGRAM

"SEC. 1522. (a) A State administrative program (hereinafter in this section referred to as the 'State Program') is a program for the performance within the State by its State Agency of the functions prescribed by section 1523. The Secretary may not approve a State Program for a State unless it—

"(1) meets the requirements of subsection (b);

"(2) has been submitted to the Secretary by the Governor of the State at such time and in such detail, and contains or is accompanied by such information, as the Secretary deems necessary; and

"(3) has been submitted to the Secretary only after the Governor of the State has afforded to the general public of the State a reasonable opportunity for a presentation of views on the State Program.

"(b) The State Program of a State must—

"(1) provide for the performance within the State (after the designation of a State Agency and in accordance with the designation agreement) of the functions prescribed by section 1523 and specify the State Agency of the State as the sole agency for the performance of such functions (except as provided in subsection (b) of such section) and for the administration of the State Program;

"(2) contain or be supported by satisfactory evidence that the State Agency has under State law the authority to carry out such functions and the State Program in accordance with this part and contain a current budget for the operation of the State Agency;

"(3) provide for adequate consultation with, and authority for, the Statewide Health Coordinating Council (prescribed by section 1524), in carrying out such functions and the State program;

"(4) (A) set forth in such detail as the Secretary may prescribe the qualifications for personnel having responsibilities in the performance of such functions and the State Program, and require the State Agency to have a professional staff for planning and a professional staff for development, which staffs shall be of such size and meet such qualifications as the Secretary may prescribe;

"(B) provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient administration of such functions and the State Program, including methods relating to the establishment and maintenance of person-

nel standards on a merit basis consistent with such standards as are or may be established by the Civil Service Commission under section 208(a) of the Intergovernmental Personnel Act of 1970 (Public Law 91–648), but the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with the methods relating to personnel standards on a merit basis established and maintained in conformity with this paragraph;

"(5) require the State Agency to perform its functions in accordance with procedures and criteria established and published by it, which procedures and criteria shall conform to the requirements of section 1532;

"(6) require the State Agency to (A) conduct its business meetings in public, (B) give adequate notice to the public of such meetings, and (C) make its records and data available, upon request, to the public;

"(7) (A) provide for the coordination (in accordance with regulations of the Secretary) with the cooperative system provided for under section 306(e) of the activities of the State Agency for the collection, retrieval, analysis, reporting, and publication of statistical and other information related to health and health care, and (B) require providers of health care doing business in the State to make statistical and other reports of such information to the State Agency;

"(8) provide, in accordance with methods and procedures prescribed or approved by the Secretary, for the evaluation, at least annually, of the performance by the State Agency of its functions and of their economic effectiveness;

"(9) provide that the State Agency will from time to time, and in any event not less often than annually, review the State Program and submit to the Secretary required modifications;

"(10) require the State Agency to make such reports, in such form and containing such information, concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;

"(11) require the State Agency to provide for such fiscal control and fund accounting procedures as the Secretary may require to assure proper disbursement of, and accounting for, amounts received from the Secretary under this title;

"(12) permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records of the State Agency pertinent to the disposition of amounts received from the Secretary under this title; and

"(13) provide that if the State Agency makes a decision in the performance of a function under paragraph (3), (4), (5), or (6) of section 1523(a) or under title XVI which is inconsistent with a recommendation made under subsection (f), (g), or (h) of section 1513 by a health systems agency within the State—

"(A) such decision (and the record upon which it was made) shall, upon request of the health systems agency, be reviewed, under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies, by an agency of the State (other than the State health planning and development agency) designated by the Governor, and

"(B) the decision of the reviewing agency shall for purposes of this title and title XVI be considered the decision of the State health planning and development agency.

"(c) The Secretary shall approve any State Program and any modification thereof which complies with subsections (a) and (b). The Secretary shall review for compliance with the requirements of this part the specifications of and operations under each State Program approved by him. Such review shall be conducted not less often than once each year.

"STATE HEALTH PLANNING AND DEVELOPMENT FUNCTIONS

"SEC. 1523. (a) Each State Agency of a State designated under section 1521(b)(3) shall, except as authorized under subsection (b), perform within the State the following functions:

"(1) Conduct the health planning activities of the State and implement those parts of the State health plan (under section 1524(c)(2)) and the plans of the health systems agencies within the State which relate to the government of the State.

"(2) Prepare and review and revise as necessary (but at least annually) a preliminary State health plan which shall be made up of the HSP's of the health systems agencies within the State. Such preliminary plan may, as found necessary by the State Agency, contain such revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs. Such preliminary plan shall be submitted to the Statewide Health Coordinating Council of the State for approval or disapproval and for use in developing the State health plan referred to in section 1524(c).

"(3) Assist the Statewide Health Coordinating Council of the State in the review of the State medical facilities plan required under section 1603, and in the performance of its functions generally.

"(4)(A) Serve as the designated planning agency of the State for the purposes of section 1122 of the Social Security Act if the State has made an agreement pursuant to such section, and (B) administer a State certificate of need program which applies to new institutional health services proposed to be offered or developed within the State and which is satisfactory to the Secretary. Such program shall provide for review and determination of need prior to the time such services, facilities, and organizations are offered or developed or substantial expenditures are undertaken in preparation for such offering or development, and provide that only those services, facilities, and organizations found to be needed shall be offered or developed in the State. In performing

its functions under this paragraph the State Agency shall consider recommendations made by health systems agencies under section 1513(f).

"(5) After consideration of recommendations submitted by health systems agencies under section 1513(f) respecting new institutional health services proposed to be offered within the State, make findings as to the need for such services.

"(6) Review on a periodic basis (but not less often than every five years) all institutional health services being offered in the State and, after consideration of recommendations submitted by health systems agencies under section 1513(g) respecting the appropriateness of such services, make public its findings.

"(b)(1) Any function described in subsection (a) may be performed by another agency of the State government upon request of the Governor under an agreement with the State Agency satisfactory to the Secretary.

"(2) The requirement of paragraph (4)(B) of subsection (a) shall not apply to a State Agency of a State until the expiration of the first regular session of the legislature of such State which begins after the date of enactment of this title.

"(3) A State Agency shall complete its findings with respect to the appropriateness of any existing institutional health service within one year after the date a health systems agency has made its recommendation under section 1513(g) with respect to the appropriateness of the service.

"(c) If a State Agency makes a decision in carrying out a function described in paragraph (4), (5), (6), or (7) of subsection (a) which is not consistent with the goals of the applicable HSP or the priorities of the applicable AIP, the State Agency shall submit to the appropriate health systems agency a detailed statement of the reasons for the inconsistency.

"STATEWIDE HEALTH COORDINATING COUNCIL

"SEC. 1524. (a) A State health planning and development agency designated under section 1521 shall be advised by a Statewide Health Coordinating Council (hereinafter in this section referred to as the 'SHCC') which (1) is organized in the manner described by subsection (b), and (2) performs the functions listed in subsection (c).

"(b)(1) A SHCC of a State shall be composed in the following manner:

"(A)(i) A SHCC shall have no fewer than sixteen representatives appointed by the Governor of the State from lists of at least five nominees submitted to the Governor by each of the health systems agencies designated for health service areas which fall, in whole or in part, within the State.

"(ii) Each such health systems agency shall be entitled to the same number of representatives on the SHCC.

"(iii) Each such health systems agency shall be entitled to at least two representatives on the SHCC. Of the representatives of a health systems agency, not less than one-half shall be individuals who are consumers of health care and who are not providers of health care.

"(B) *In addition to the appointments made under subparagraph (A), The Governor of the State may appoint such persons (including State officials, public elected officials, and other representatives of governmental authorities within the State) to serve on the SHCC as he deems appropriate; except that (i) the number of persons appointed to the SHCC under this subparagraph may not exceed 40 per centum of the total membership of the SHCC, and (ii) a majority of the persons appointed by the Governor shall be consumers of health care who are not also providers of health care.*

"(C) *Not less than one-third of the providers of health care who are members of a SHCC shall be direct providers of health care (as described in section 1513(3)).*

"(D) *Where two or more hospitals or other health care facilities of the Veterans' Administration are located in a State, the SHCC shall, in addition to the appointed members, include, as an ex officio member, an individual whom the Chief Medical Director of the Veterans' Administration shall have designated as a representative of such facilities.*

"(2) *The SHCC shall select from among its members a chairman.*

"(3) *The SHCC shall conduct all of its business meetings in public, and shall meet at least once in each calendar quarter of a year.*

"(c) *A SHCC shall perform the following functions:*

"(1) *Review annually and coordinate the HSP and AIP of each health systems agency within the State and report to the Secretary, for purposes of his review under section 1535(c), its comments on such HSP and AIP.*

"(2)(A) *Prepare and review and revise as necessary (but at least annually) a State health plan which shall be made up of the HSP's of the health systems agencies within the State. Such plan may, as found necessary by the SHCC, contain revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs. Each health systems agency which participates in the SHCC shall make available to the SHCC its HSP for each year for integration into the State Health plan and shall, as required by the SHCC, revise its HSP to achieve appropriate coordination with the HSP's of the other agencies which participate in the SHCC or to deal more effectively with statewide health needs.*

"(B) *In the preparation and revision of the State health plan, the SHCC shall review and consider the preliminary State health plan submitted by the State Agency under section 1523(a)(2), and shall conduct a public hearing on the plan as proposed and shall give interested persons an opportunity to submit their views orally and in writing. Not less than thirty days prior to any such hearing, the SHCC shall publish in at least two newspapers of general circulation in the State a notice of its consideration of the proposed plan, the time and place of the hearing, the place at which interested persons may consult the plan in advance of the hearing, and the place and period during which to direct written comment to the SHCC on the plan.*

"(3) *Review annually the budget of each such health systems agency and report to the Secretary, for purposes of his review under section 1535(a), its comments on such budget.*

"(4) *Review applications submitted by such health systems agencies for grants under sections 1516 and 1640 and report to the Secretary its comments on such applications.*

"(5) *Advise the State Agency of the State generally on the performance of its functions.*

"(6) *Review annually and approve or disapprove any State plan and any application (and any revision of a State plan or application) submitted to the Secretary as a condition to the receipt of any funds under allotments made to States under this Act, the Community Mental Health Centers Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. Notwithstanding any other provision of this Act or any other Act referred to in the preceding sentence, the Secretary shall allow a SHCC sixty days to make the review required by such sentence. If a SHCC disapproves such a State plan or application, the Secretary may not make Federal funds available under such State plan or application until he has made, upon request of the Governor of the State which submitted such plan or application or another agency of such State, a review of the SHCC decision. If after such review the Secretary decides to make such funds available, the decision by the Secretary to make such funds available shall be submitted to the SHCC and shall contain a detailed statement of the reasons for the decision.*

"GRANTS FOR STATE HEALTH PLANNING AND DEVELOPMENT

"SEC. *1525. (a) The Secretary shall make grants to State health planning and development agencies designated under subsection (b)(2) or (b)(3) of section 1521 to assist them in meeting the costs of their operation. Any grant made under this subsection to a State Agency shall be available for obligation only for a period not to exceed the period for which its designation agreement is entered into or renewed. The amount of any grant made under this subsection shall be determined by the Secretary, except that no grant to a designated State Agency may exceed 75 per centum of its operation costs (as determined under regulations of the Secretary) during the period for which the grant is available for obligation.*

"(b) *Grants under subsection (a) shall be made on such terms and conditions as the Secretary may prescribe; except that the Secretary may not make a grant to a State Agency unless he receives satisfactory assurances that the State Agency will expend in performing the functions prescribed by section 1523 during the fiscal year for which the grant is sought, an amount of funds from non-Federal sources which is at least as great as the average amount of funds expended, in the three years immediately preceding the fiscal year for which such grant is sought, by the State, for which such State Agency has been designated, for the purposes for which funds under such grant may be used (excluding expenditures of a nonrecurring nature).*

"(c) *For the purpose of making payments under grants under subsection (a), there are authorized to be appropriated $25,000,000 for*

the fiscal year ending June 30, 1975, $30,000,000 for the fiscal year ending June 30, 1976, and $35,000,000 for the fiscal year ending June 30, 1977.

"GRANTS FOR RATE REGULATION

"SEC. 1526. (a) *For the purpose of demonstrating the effectiveness of State Agencies regulating rates for the provision of health care, the Secretary may make to a State Agency designated, under an agreement entered into under section 1521(b)(3), for a State which (in accordance with regulations prescribed by the Secretary) has indicated an intent to regulate (not later than six months after the date of the enactment of ths title) rates for the provision of health care within the State. Not more than six State Agencies may receive grants under this subsection.*

"(b)(1) *A State Agency which receives a grant under subsection (a) shall—*

"(A) *provide the Secretary satisfactory evidence that the State Agency has under State law the authority to carry out rate regulation functions in accordance with this section and provide the Secretary a current budget for the performance of such functions by it;*

"(B) *set forth in such detail as the Secretary may prescribe the qualifications for personnel having responsibility in the performance of such functions, and shall have a professional staff for rate regulation, which staff shall be headed by a Director;*

"(C) *provide for such methods of administration as found by the Secretary to be necessary for the proper and efficient administration of such functions;*

"(D) *perform its functions in accordance with procedures established and published by it, which procedures shall conform to the requirements of section 1532;*

"(E) *comply with the requirements prescribed by paragraphs (6) through (12) of section 1522(b) with respect to the functions prescribed by subsection (a);*

"(F) *provide for the establishment of a procedure under which the State Agency will obtain the recommendation of the appropriate health systems agency prior to conducting a review of the rates charged or proposed to be charged for services; and*

"(G) *meet such other requirements as the Secretary may prescribe.*

"(2) *In prescribing requirements under paragraph (1) of this subsection, the Secretary shall consider the manner in which a State Agency shall perform its functions under a grant under subsection (a), including whether the State Agency should—*

"(A) *permit those engaged in the delivery of health services to retain savings accruing to them from effective management and cost control,*

"(B) *create incentives at each point in the delivery of health services for utilization of the most economical modes of services feasible,*

"(C) *document the need for and cost implications of each new service for which a determination of reimbursement rates is sought, and*

"(D) employ for each type or class of person engaged in the delivery of health services—

"(i) a unit for determining the reimbursement rates, and

"(ii) a base for determining rates of change in the reimbursement rates,

which unit and base are satisfactory to the Secretary.

"(c) Grants under subsection (a) shall be made on such terms and conditions as the Secretary may prescribe, except that (1) such a grant shall be available for obligation only during the one-year period beginning on the date such grant was made, and (2) no State Agency may receive more than three grants under subsection (a).

"(d) Each State Agency which receives a grant under subsection (a) shall report to the Secretary (in such form and manner as he shall prescribe) on the effectiveness of the rate regulation program assisted by such grant. The Secretary shall report annually to the Congress on the effectiveness of the programs assisted by the grants authorized by subsection (a).

"(e) There are authorized to be appropriated to make payments under grants under subsection (a), $4,000,000 for the fiscal year ending June 30, 1975, $5,000,000 for the fiscal year ending June 30, 1976, and $6,000,000 for the fiscal year ending June 30, 1977.

"Part D—General Provisions

"definitions

"Sec. 1531. For purposes of this title:

"(1) The term 'State' includes the District of Columbia and the Commonwealth of Puerto Rico.

"(2) The term 'Governor' means the chief executive officer of a State or his designee.

"(3) The term 'provider of health care' means an individual—

"(A) who is a direct provider of health care (including a physician, dentist, nurse, podiatrist, or physician assistant) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including hospitals, long-term care facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration; or

"(B) who is an indirect provider of health care in that the individual—

(i) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subclause (II) or (IV) of clause (ii);

(ii) receives (either directly or through his spouse) more than one-tenth of his gross annual income from any one or combination of the following:

"(I) Fees or other compensation for research into or instruction in the provision of health care.

"(II) Entities engaged in the provision of health care or in such research or instruction.

"(III) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care.

"(IV) Entities engaged in producing drugs or such other articles.

"(iii) is a member of the immediate family of an individual described in subparagraph (A) or in clause (i), (ii), or (iv) of subparagraph (B); or

"(iv) is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

"(4) the term 'health resources' includes health services, health professions personnel, and health facilities, except that such term does not include Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

"(5) The term 'institutional health services' means the health services provided through health care facilities and health maintenance organizations (as such facilities and organizations are defined in regulations prescribed under section 1122 of the Social Security Act) and includes the entities through which such services are provided.

"PROCEDURES AND CRITERIA FOR REVIEWS OF PROPOSED HEALTH SYSTEM CHANGES

"SEC. 1532. (a) In conducting reviews pursuant to subsections (e), (f), and (g) of section 1513 or in conducting any other reviews of proposed or existing health services, each health systems agency shall (except to the extent approved by the Secretary) follow procedures, and apply criteria, developed and published by the agency in accordance with regulations of the Secretary; and in performing its review functions under section 1523, a State Agency shall (except to the extent approved by the Secretary) follow procedures, and apply criteria, developed and published by the State Agency in accordance with regulations of the Secretary. Procedures and criteria for reviews by health systems agencies and States Agencies may vary according to the purpose for which a particular review is being conducted or the type of health services being reviewed.

"(b) Each health systems agency and State Agency shall include in the procedures required by subsection (a) at least the following:

"(1) Written notification to affected persons of the beginning of a review.

"(2) Schedules for reviews which provide that no review shall, to the extent practicable, take longer than ninety days from the date the notification described in paragraph (1) is made.

"(3) Provision for persons subject to a review to submit to the agency or State Agency (in such form and manner as the agency or State Agency shall prescribe and publish) such information as the agency or State Agency may require concerning the subject of such review.

"(4) Submission of applications (subject to review by a health systems agency or a State Agency) made under this Act or other provisions of law for Federal financial assistance for health serv-

ices to the health systems agency or State Agency at such time and in such manner as it may require.

"(5) Submission of periodic reports by providers of health services and other persons subject to agency or State Agency review respecting the development of proposals subject to review.

"(6) Provision for written findings which state the basis for any final decision or recommendation made by the agency or State Agency.

"(7) Notification of providers of health services and other persons subject to agency or State Agency review of the status of the agency or State Agency review of the health services or proposals subject to review, findings made in the course of such review, and other appropriate information respecting such review.

"(8) Provision for public hearings in the course of agency or State Agency review if requested by persons directly affected by the review; and provision for public hearings, for good cause shown, respecting agency and State Agency decisions.

"(9) Preparation and publication of regular reports by the agency and State Agency of the reviews being conducted) including a statement concerning the status of each such review) and of the reviews completed by the agency and State Agency (including a general statement of the findings and decisions made in the course of such reviews) since the publication of the last such report.

"(10) Access by the general public to all applications reviewed by the agency and State Agency and to all other written materials pertinent to any agency or State Agency review.

"(11) In the case of construction projects, submission to the agency and State Agency by the entities proposing the projects of letters of intent in such detail as may be necessary to inform the agency and State Agency of the scope and nature of the projects at the earliest possible opportunity in the course of planning of such construction projects.

"(c) Criteria required by subsection (a) for health systems agency and State Agency review shall include consideration of at least the following:

"(1) The relationship of the health services being reviewed to the applicable HSP and AIP.

"(2) The relationship of services reviewed to the long-range development plan (if any) of the person providing or proposing such services.

"(3) The need that the population served or to be served by such services has for such services.

"(4) The availability of alternative, less costly, or more effective methods of providing such services.

"(5) The relationship of services reviewed to the existing health care system of the area in which such services are provided or proposed to be provided.

"(6) In the case of health services proposed to be provided, the availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of such services and the availability of alterna-

tive uses of such resources for the provision of other health services.

(7) The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools, multidisciplinary clinics, specialty centers, and such other entities as the Secretary may by regulation prescribe.

"(8) The special needs and circumstances of health maintenance organizations for which assistance may be provided under title XIII.

"(9) In the case of a construction project—

"(A) the costs and methods of the proposed construction, and

"(B) the probable impact of the construction project reviewed on the costs of providing health services by the person proposing such construction project.

"TECHNICAL ASSISTANCE FOR HEALTH SYSTEMS AGENCIES AND STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

"SEC. 1533. (a) The Secretary shall provide (directly or through grants or contracts, or both) to designated health systems agencies and State Agencies (1) assistance in developing their health plans and approaches to planning various types of health services, (2) technical materials, including methodologies, policies, and standards appropriate for use in health planning, and (3) other technical assistance as may be necessary in order that such agencies may properly perform their functions.

"(b) The Secretary shall include in the materials provided under subsection (a) the following:

"(1)(A) Specification of the minimum data needed to determine the health status of the residents of a health service area and the determinants of such status.

"(B) Specification of the minimum data needed to determine the status of the health resources and services of a health service area.

"(C) Specification of the minimum data needed to describe the use of health resources and services within a health service area.

"(2) Planning approaches, methodologies, policies, and standards which shall be consistent with the guidelines established by the Secretary under section 1501 for appropriate planning and development of health resources, and which shall cover the priorities listed in section 1502.

"(3) Guidelines for the organization and operation of health systems agencies and State Agencies including guidelines for—

"(A) the structure of a health systems agency, consistent with section 1512(b), and of a State Agency, consistent with section 1522;

"(B) the conduct of the planning and development processes;

"(C) the performance of health systems agency functions in accordance with section 1513; and

"(D) the performance of State Agency functions in accordance with section 1523.

"(c) In order to facilitate the exchange of information concerning health services, health resources, and health planning and resources development practice and methodology, the Secretary shall establish a national health planning information center to support the health planning and resources development programs of health systems agencies, State Agencies, and other entities concerned with health planning and resources development; to provide access to current information on health planning and resources development; and to provide information for use in the analysis of issues and problems related to health planning and resources development.

"(d) The Secretary shall establish the following within one year of the date of enactment of this title:

"(1) A uniform system for calculating the aggregate cost of operation and the aggregate volume of services provided by health services institutions as defined by the Secretary in regulations. Such system shall provide for the calculation of the aggregate volume to be based on:

"(A) The number of patient days;

"(B) The number of patient admissions;

"(C) The number of out-patient visits; and

"(D) Other relevant factors as determined by the Secretary.

"(2) A uniform system for cost accounting and calculating the volume of services provided by health services institutions. Such system shall:

"(A) Include the establishment of specific cost centers and, where appropriate, subcost centers.

"(B) Include the designation of an appropriate volume factor for each cost center.

"(C) Provide for an appropriate application of such system in the different types of institutions (including hospitals, nursing homes, and other types of health services institutions), and different sizes of such types of institutions.

"(3) A uniform system for calculating rates to be charged to health insurers and other health institutions payors by health service institutions. Such system shall:

"(A) Be based on an all-inclusive rate for various categories of patients (including, but not limited to individuals receiving medical, surgical, pediatric, obstetric, and psychiatric institutional health services).

"(B) Provide that such rates reflect the true cost of providing services to each such category of patients. The system shall provide that revenues derived from patients in one category shall not be used to support the provision of services to patients in any other category.

"(C) Provide for an appropriate application of such system in the different types of institutions (including hospitals,

nursing homes, and other types of health service institutions) and different sizes of such types of institutions.

"(D) Provide that differences in rates to various classes of purchasers (including health insurers, direct service payors, and other health institution payors) be based on justified and documented differences in the costs of operation of health service institutions made possible by the actions of such purchasers.

"(4) A classification system for health services institutions. Such classification system shall quantitatively describe and group health services institutions of the various types. Factors included in such classification system shall include—

"(A) the number of beds operated by an institution;

"(B) the geographic location of an institution;

"(C) the operation of a postgraduate physician training program by an institution; and

"(D) the complexity of services provided by an institution.

"(5) A uniform system for the reporting by health services institutions of—

"(A) the aggregate cost of operation and the aggregate volume of services, as calculated in accordance with the system established by the Secretary under paragraph (1);

"(B) the costs and volume of services at various cost centers, and subcost centers, as calculated in accordance with the system established by the Secretary under paragraph (2); and

"(C) rates, by category of patient and class of purchaser, as calculated in accordance with the system established by the Secretary under paragraph (3).

Such system shall provide for an appropriate application of such system in the different types of institutions (including hospitals, nursing homes, and other types of health services institutions) and different sizes of such institutions.

"CENTERS FOR HEALTH PLANNING

"SEC. 1534. (a) For the purposes of assisting the Secretary in carrying out this title, providing such technical and consulting assistance as health systems agencies and State Agencies may from time to time require, conducting research, studies and analyses of health planning and resources development, and developing health planning approaches, methodologies, policies, and standards, the Secretary shall by grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and developing new centers, and operating existing and new centers, for multidisciplinary planning development and assistance. To the extent practicable, the Secretary shall provide assistance under this section so that at least five such centers will be in operation by June 30, 1976.

"(b)(1) No grant or contract may be made under this section for planning or developing a center unless the Secretary determines that when it is operational it will meet the requirements listed in paragraph (2) and no grant or contract may be made under this section for operation of a center unless the center meets such requirements.

"(2) *The requirements referred to in paragraph (1) are as follows:*

"(A) *There shall be a full-time director of the center who possesses a demonstrated capacity for substantial accomplishment and leadership in the field of health planning and resources development, and there shall be such additional professional staff as may be appropriate.*

"(B) *The staff of the center shall represent a diversity of relevant disciplines.*

"(C) *Such additional requirements as the Secretary may by regulation prescribe.*

"(c) *Centers assisted under this section (1) may enter into arrangements with health systems agencies and State Agencies for the provision of such services as may be appropriate and necessary in assisting the agencies and State Agencies in performing their functions under section 1513 or 1523, respectively, and (2) shall use methods (satisfactory to the Secretary) to disseminate to such agencies and State Agencies such planning approaches, methodologies, policies and standards as they develop.*

"(d) *For the purpose of making payments pursuant to grants and contracts under subsection (a) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $10,000,000 for the fiscal year ending June 30, 1977.*

"REVIEW BY THE SECRETARY

"SEC. *1535. (a) The Secretary shall review and approve or disapprove the annual budget of each designated health systems agency and State Agency. In making such review and approval or disapproval the Secretary shall consider the comments of Statewide Health Coordinating Councils submitted under section 1524(c)(3). Information submitted to the Secretary by a health systems agency or a State Agency in connection with the Secretary's review under this subsection shall be made available by the Secretary, upon request, to the appropriate committees (and their subcommittees) of the Congress.*

"(b) *The Secretary shall prescribe performance standards covering the structure, operation, and performance of the functions of each designated health systems agency and State Agency, and he shall establish a reporting system based on the performance standards that allows for continuous review of the structure, operation, and performance of the functions of such agencies.*

"(c) *The Secretary shall review in detail at least every three years the structure, operation, and performance of the functions of each designated health systems agency to determine—*

"(1) *the adequacy of the HSP of the agency for meeting the needs of the residents of the area for a healthful environment and for accessible, acceptable and continuous quality health care at reasonable costs, and the effectiveness of the AIP in achieving the system described in the HSP;*

"(2) *if the structure, operation, and performance of the functions of the agency meet the requirements of sections 1512(b) and 1513;*

"(3) the extent to which the agency's governing body (and executive committee (if any)) represents the residents of the health service area for which the agency is designated;

"(4) the professional credentials and competence of the staff of the agency;

"(5) the appropriateness of the data assembled pursuant to section 1513(b)(1) and the quality of the analyses of such data;

"(6) the extent to which technical and financial assistance from the agency have been utilized in an effective manner to achieve the goals and objectives of the HSP and the AIP; and

"(7) the extent to which it may be demonstrated that—

"(A) the health of the residents in the agency's health service area has been improved;

"(B) the accessibility, acceptability, continuity, and quality of health care in such area has been improved; and

"(C) increases in costs of the provision of health care have been restrained.

"(d) The Secretary shall review in detail at least every three years the structure, operation, and performance of the functions of each designated State Agency to determine—

"(1) the adequacy of the State health plan of the Statewide Health Coordinating Council prepared under section 1524(c)(2) in meeting the needs of the residents of the State for a healthful environment and for accessible, acceptable, and continuous quality health care at reasonable costs;

"(2) if the structure, operation, and performance of the functions of the State Agency meet the requirements of sections 1522 and 1523;

"(3) the extent to which the Statewide Health Coordinating Council has a membership meeting, and has performed in a manner consistent with, the requirements of section 1524;

"(4) the professional credentials and competence of the staff of the State Agency;

"(5) the extent to which financial assistance provided under title XVI by the State Agency has been used in an effective manner to achieve the State's health plan under section 1524(c)(2); and

"(6) the extent to which it may be demonstrated that—

"(A) the health of the residents of the State has been improved;

"(B) the accessibility, acceptability, continuity, and quality of health care in the State has been improved; and

"(C) increases in costs of the provision of health care have been restrained.

"SPECIAL PROVISIONS FOR CERTAIN STATES AND TERRITORIES

"SEC. 1536. (a) Any State which—

"(1) has no county or municipal public health institution or department, and

"(2) has, prior to the date of enactment of this title, maintained a health planning system which substantially complies with the purposes of this title,

and the Virgin Islands, Guam, the Trust Territories in the Pacific Islands, and American Samoa shall each be considered in accordance with subsection (b) to be a State for purposes of this title.

"(b) In the case of an entity which under subsection (a) is to be considered a State for purposes of this title—

"(1) no health service area shall be established within it,

"(2) no health systems agency shall be designated for it,

"(3) the State Agency designated for it under section 1521 may, in addition to the functions prescribed by section 1523, perform the functions prescribed by section 1513 and shall be eligible to receive grants authorized by sections 1516 and 1640, and

"(4) the chief executive office shall appoint the Statewide Health Coordinating Council prescribed by section 1524 in accordance with the regulation of the Secretary."

REVISION OF HEALTH RESOURCES DEVELOPMENT PROGRAMS UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 4. The Public Health Service Act, as amended by section 3, is amended by adding after title XV the following new title:

"TITLE XVI—HEALTH RESOURCES DEVELOPMENT

"PART A—PURPOSE, STATE PLAN, AND PROJECT APPROVAL

"PURPOSE

"SEC. 1601. It is the purpose of this title to provide assistance, through allotments under part B and loans and loan guarantees and interest subsidies under part C, for projects for—

"(1) modernization of medical facilities;

"(2) construction of new outpatient medical facilities;

"(3) construction of new inpatient medical facilities in areas which have experienced (as determined under regulations of the Secretary) recent rapid population growth; and

"(4) conversion of existing medical facilities for the provision of new health services,

and to provide assistance, through grants under part D, for construction and modernization projects designed to prevent or eliminate safety hazards in medical facilities or to avoid noncompliance by such facilities with licensure or accreditation standards.

"GENERAL REGULATIONS

"SEC. 1602. The Secretary shall by regulation—

"(1) prescribe the general manner in which the State Agency of each State shall determine for the State medical facilities plan under section 1603 the priority among projects within the State for which assistance is available under this title, based on the relative need of different areas within the State for such projects and giving special consideration—

"(A) to projects for medical facilities serving areas with relatively small financial resources and for medical facilities serving rural communities,

"(B) in the case of projects for modernization of medical facilities, to projects for facilities serving densely populated areas,

"(C) in the case of projects for construction of outpatient medical facilities, to projects that will be located in, and provide services for residents of, areas determined by the Secretary to be rural or urban poverty areas,

"(D) to projects designed to (i) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (ii) avoid noncompliance with State or voluntary licensure or accreditation standards, and

"(E) to projects for medical facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

"(2) prescribe for medical facilities projects assisted under this title general standards of construction, modernization, and equipment for medical facilities of different classes and in different types of location;

"(3) prescribe criteria for determining needs for medical facility beds and needs for medical facilities, and for developing plans for the distribution of such beds and facilities;

"(4) prescribe criteria for determining the extent to which existing medical facilities are in need of modernization;

"(5) require each State medical facilities plan under section 1503 to provide for adequate medical facilities for all persons residing in the State and adequate facilities to furnish needed health services for persons unable to pay therefor; and

"(6) prescribe the general manner in which each entity which receives financial assistance under this title or has received financial assistance under this title or title VI shall be required to comply with the assurances required to be made at the time such assistance was received and the means by which such entity shall be required to demonstrate compliance with such assurances.

An entity subject to the requirements prescribed pursuant to paragraph (6) respecting compliance with assurances made in connection with receipt of financial assistance shall submit periodically to the Secretary data and information which reasonably supports the entity's compliance with such assurances. The Secretary may not waive the requirement of the preceding sentence.

"STATE MEDICAL FACILITIES PLAN

"SEC. 1603. (a) Before an application for assistance under this title (other than part D) for a medical facility project described in section 1601 may be approved, the State Agency of the State in which such project is located must have submitted to the Secretary and had approved by him a State medical facilities plan. To be approved by the Secretary a State medical facilities plan for a State must—

"(1) prescribe that the State Agency of the State shall administer or supervise the administration of the plan and contain evidence satisfactory to the Secretary that the State Agency has the authority to carry out the plan in conformity with this title;

"(2) prescribe that the Statewide Health Coordinating Council of the State shall advise and consult with the State Agency in carrying out the plan;

"(3) be approved by the Statewide Health Coordinating Council as consistent with the State health plan developed pursuant to section 1524(c) (2);

"(4) set forth, in accordance with criteria established in regulations prescribed under section 1602(a) and on the basis of a statewide inventory of existing medical facilties, a survey of need, and the plans of health systems agencies within the State—

"(A) the number and type of medical facility beds and medical facilities needed to provide adequate inpatient care to people residing in the State, and a plan for the distribution of such beds and facilities in health service areas, throughout the State,

"(B) the number and type of outpatient and other medical facilities needed to provide adequate public health services and outpatient care to people residing in the State, and a plan for the distribution of such facilities in health service areas throughout the State, and

"(C) the extent to which existing medical facilities in the State are in need of modernization or conversion to new uses;

"(5) set forth a program for the State for assistance under this title for projects described in section 1601, which program shall indicate the type of assistance which should be made available to each project and shall conform to the assessment of need set forth pursuant to paragraph (4) and regulations promulgated under section 1602(a);

"(6) set forth (in accordance with regulations promulgated under section 1602(a)) priorities for the provision of assistance under this title for projects in the program set forth pursuant to paragraph (4);

"(7) provide minimum requirements (to be fixed in the discretion of the State Agency) for the maintenance and operation of facilities which receive assistance under this title, and provide for enforcement of such standards;

"(8) provide for affording to every applicant for assistance for a medical facilities project under this title an opportunity for a hearing before the State Agency; and

"(9) provide that the State Agency will from time to time, but not less often than annually, review the plan and submit to the Secretary any modifications thereof which it considers necessary.

"(b) The Secretary shall approve any State medical facilities plan and any modification thereof which complies with the provisions of subsection (a) if the State Agency, as determined under the review made under section 1535(d), is organized and operated in the manner prescribed by section 1522 and is carrying out its functions under section 1523 in a manner satisfactory to the Secretary. If any such plan

or modification thereof shall have been disapproved by the Secretary for failure to comply with subsection (a), the Secretary shall, upon request of the State Agency, afford it an opportunity for hearing.

"APPROVAL OF PROJECTS

"SEC. 1604. (a) For each project described in section 1601 and included within a State's State medical facilities plan approved under section 1603 there shall be submitted to the Secretary, through the State's State Agency, an application. An application for a grant under section 1625 shall be submitted directly to the Secretary. Except as provided in section 1625, the applicant under such an application may be a State, a political subdivision of a State or any other public entity, or a private nonprofit entity. If two or more entities join in a project, an application for such project may be filed by any of such entities or by all of them.

"(b)(1) Except as authorized under paragraph (2), an application for any project shall set forth—

"(A) in the case of a modernization project for a medical facility for continuation of existing health services, a finding by the State Agency of a continued need for such services, and, in the case of any other project for a medical facility, a finding by the State Agency of the need for the new health services to be provided through the medical facility upon completion of the project;

"(B) a description of the site of such project;

"(C) plans and specifications therefor which meet the requirements of the regulations prescribed under section 1602(a);

"(D) reasonable assurance that title to such site is or will be vested in one or more of the entities filing the application or in a public or other nonprofit entity which is to operate the facility on completion of the project;

"(E) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed, and, for the purpose of determining if the requirements of this subparagraph are met, Federal assistance provided directly to a medical facility which is located in an area determined by the Secretary to be an urban or rural poverty area or through benefits provided individuals served at such facility shall be considered as financial support;

"(F) the type of assistance being sought under this title for the project;

"(G) except in the case of a project under section 1625, a certification by the State Agency of the Federal share for the project;

"(H) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

"(I) in the case of a project for the construction or modernization of an outpatient facility, reasonable assurance that the services of a general hospital will be available to patients at such facility who are in need of hospital care; and

"(J) reasonable assurance that at all times after such application is approved (i) the facility or portion thereof to be constructed, or modernized, or converted will be made available to all persons residing or employed in the area served by the facility, and (ii) there will be made available in the facility or portion thereof to be constructed, modernized, or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determining the reasonableness of the volume of services, provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint.

"(2)(A) The Secretary may waive—

"(i) the requirements of subparagraph (C) of paragraph (1) for compliance with modernization and equipment standards prescribed pursuant to section 1602(a)(2), and

"(ii) the requirement of subparagraph (D) of paragraph (1) respecting title to a project site,

in the case of an application for a project described in subparagraph (B).

"(B) A project referred to in subparagraph (A) is a project—

"(i) for the modernization of an outpatient medical facility which will provide general purpose health services, which is not part of a hospital, and which will serve a medically underserved population as defined in section 1633 or as designated by a health systems agency, and

"(ii) for which the applicant seeks (I) not more than $20,000 from the allotments made under part B to the State in which it is located, or (II) a loan under part C the principal amount of which does not exceed $20,000.

"(c) The Secretary shall approve an application submitted under subsection (b) (other than an application for a grant under section 1625) if—

"(1) in the case of a project to be assisted from an allotment made under part B, there are sufficient funds in such allotment to pay the Federal share of the project; and

"(2) the Secretary finds that—

"(A) the application (i) is in conformity with the State medical facilities plan approved under section 1603, (ii) has been approved and recommended by the State Agency, (iii) is for a project which is entitled to priority over other projects within the State as determined in accordance with the approved State medical facilities plan, and (iv) contains the assurances required by subsection (b); and

"(B) the plans and specifications for the project meet the requirements of the regulations prescribed pursuant to section 1602(a).

"(d) No application (other than an application for a grant under section 1625) shall be disapproved until the Secretary has afforded the State Agency an opportunity for a hearing.

"(e) *Amendment of any approved application shall be subject to approval in the same manner as an original application.*

"(f) *Each application shall be reviewed by health systems agencies in accordance with section 1513(e).*

"PART B—ALLOTMENTS

"ALLOTMENTS

"SEC. *1610. (a) For each fiscal year, the Secretary shall, in accordance with regulations, make from sums appropriated for such fiscal year under section 1513 allotments among the States on the basis of the population, the financial need, and need for medical facilities projects described in section 1601 of the respective States. The population of the States shall be determined on the basis of the latest figures certified by the Secretary of Commerce.*

"(b) (1) *The allotment to any State (other than Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands) for any fiscal year shall be not less than $1,000,000; and the allotment to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands for any fiscal year shall be not less than $500,000 each.*

"(2) *Notwithstanding paragraph (1), if the amount appropriated under section 1613 for any fiscal year is less than the amount required to provide allotments in accordance with paragraph (1), the amount of the allotment to any State for such fiscal year shall be an amount which bears the same ratio to the amount prescribed for such State by paragraph (1) as the amount appropriated for such fiscal year bears to the amount of appropriations needed to make allotments to all the States in accordance with paragraph (1).*

"(c) *Any amount allotted to a State for a fiscal year under subsection (a) and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the amounts allotted to such State for such purposes for such next two fiscal years; except that any such amount which is unobligated at the end of the first of such next two years and which the Secretary determines will remain unobligated at the close of the second of such next two years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this title. Any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.*

"PAYMENTS FROM ALLOTMENTS

"SEC. *1611. (a) If with respect to any medical facility project approved under section 1604 the State Agency certifies (upon the basis of inspection by it) to the Secretary that, in accordance with approved plans and specifications, work has been performed upon the project or purchases have been made for it and that payment from the applicable allotment of the State in which the project is located is due for the*

project, the Secretary shall, except as provided in subsection (b), make such payment to the State.

"(b) The Secretary is authorized to not make payments to a State pursuant to subsection (a) in the following circumstances:

"(1) If such State is not authorized by law to make payments for an approved medical facility project from the payment to be made by the Secretary pursuant to subsection (a), or if the State so requests, the Secretary shall make the payment from the State allotment directly to the applicant for such project.

"(2) If the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 1612, payment by the Secretary may, after he has given the State Agency notice and opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing.

In no event may the total of payments made under subsection (a) with respect to any project exceed an amount equal to the Federal share of such project.

"(c) In case an amendment to an approved application is approved as provided in section 1604 or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

"(d) In any fiscal year—

"(1) not more than 20 per centum of the amount of a State's allotment available for obligation in that fiscal year may be obligated for projects in the State for construction of new facilities for the provision of inpatient health care to persons residing in areas of the State which have experienced recent rapid population growth; and

"(2) not less than 25 per centum of the amount of a State's allotment available for obligation in that fiscal year shall be obligated for projects for outpatient facilities which will serve medically underserved populations.

In the administration of this part, the Secretary shall seek to assure that in each fiscal year at least one half of the amount obligated for projects pursuant to paragraph (2) shall be obligated for projects which will serve rural medically underserved populations.

"WITHHOLDING OF PAYMENTS AND OTHER COMPLIANCE ACTIONS

"Sec. 1612. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Agency concerned finds—

"(1) that the State Agency is not complying substantially with the provisions required by section 1603 to be included in its State medical facilities plan,

"(2) that any assurance required to be given in an application filed under section 1604 is not being or cannot be carried out, or

"(3) that there is a substantial failure to carry out plans and specifications approved by the Secretary under section 1604,

the Secretary shall take the action authorized by subsection (b) unless, in the case of compliance with assurances, the Secretary requires compliance by other means authorized by law.

"(b) (1) *Upon a finding described in subsection (a) and after notice to the State Agency concerned, the Secretary may—*

"(A) *withhold from all projects within the State with respect to which the finding was made further payments from the State's allotment under section 1610, or*

"(B) *withhold from the specific projects with respect to which the finding was made further payments from the applicable State allotment under section 1610.*

"(2) *Payments may be withheld, in whole or in part, under paragraph (1)—*

"(A) *until the basis for the finding upon which the withholding was made no longer exists, or*

"(B) *if corrective action to make such finding inapplicable cannot be made, until the State concerned repays or arranges for the repayment of Federal funds paid under this part for projects which because of the finding are not entitled to such funds.*

"(c) *The Secretary shall investigate and ascertain, on a periodic basis, with respect to each entity which is receiving financial assistance under this title or which has received financial assistance under title VI of this title, the extent of compliance by such entity with the assurances required to be made at the time such assistance was received. If the Secretary finds that such an entity has failed to comply with any such assurance, the Secretary shall take the action authorized by subsection (b) or take any other action authorized by law (including an action for specific performance brought by the Attorney General upon request of the Secretary) which will effect compliance by the entity with such assurances. An appropriate action to effectuate compliance with any such assurance may be brought by a person other than the Secretary only if a complaint has been filed by such person with the Secretary and the Secretary has dismissed such complaint or the Attorney General has not brought a civil action for compliance with such assurance within 6 months after the date on which the complaint was filed with the Secretary.*

"AUTHORIZATION OF APPROPRIATIONS

"SEC. *1613. Except as provided in section 1625(d), there are authorized to be appropriated for allotments under section 1510 $125,000,000 for the fiscal year ending June 30, 1975, $130,000,000 for the fiscal year ending June 30, 1976, and $135,000,000 for the fiscal year ending June 30, 1977.*

"PART C—LOANS AND LOAN GUARANTEES

"AUTHORITY FOR LOANS AND LOAN GUARANTEES

"SEC. *1620. (a) The Secretary, during the period beginning July 1, 1974, and ending June 30, 1977, may, in accordance with this part, make loans from the fund established under section 1622(d) to pay the Federal share of projects approved under section 1604.*

"(b) (1) *The Secretary, during the period beginning July 1, 1974, and ending June 30, 1977, may, in accordance with this part, guarantee to—*

"(i) *non-Federal lenders for their loans to nonprofit private entities for medical facilities projects, and*

"(ii) *the Federal Financing Bank for its loans to nonprofit private entities for such projects,*

payment of principal and interest on such loans if applications for assistance for such projects under this title have been approved under section 1604.

"(2) *In the case of a guarantee of any loan to a nonprofit private entity under this title, the Secretary shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise payable on such loan. Each holder of such a loan which is guaranteed under this title shall have a contractual right to receive from the United States interest payments required by the preceding sentence.*

"(c) *The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed such limitations as may be specified in appropriation Acts.*

"(d) *The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.*

"ALLOCATION AMONG THE STATES

"SEC. 1621. (a) *For each fiscal year, the total amount of principal of—*

"(1) *loans to nonprofit private entities which may be guaranteed, or*

"(2) *loans which may be directly made,*

under this part shall be allotted by the Secretary among the States, in accordance with regulations, on the basis of the population, financial need, and need for medical facilities projects described in section 1601 of the respective States. The population of the States shall be determined on the basis of the latest figures certified by the Secretary of Commerce.

"(b) *Any amount allotted to a State for a fiscal year under subsection (a) and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the amounts allotted to such State for such purposes for such next two fiscal years; except that any such amount which is unobligated at the end of the first of such next two years and which the Secretary determines will remain unobligated at the close of the second of such next two years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this title. Any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.*

"PART D—SPECIAL PROJECT GRANTS

"SPECIAL PROJECT GRANTS

"SEC. 1625. (a) The Secretary may make grants for construction or modernization projects designed to (1) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations, or (2) avoid noncompliance with State or voluntary licensure or accreditation standards. A grant under this subsection may be made for a project described in the preceding sentence for any medical facility owned and operated by any State or political subdivision of a State, including any city, town, county, borough, hospital district authority, or public or quasi-public corporation.

"(b) An application for a grant under subsection (a) may not be approved under section 1604 unless it contains assurances with the State Agency has determined that the applicant making the application would not be able to complete the project for which the application is submitted without the grant applied for.

"(c) The amount of any grant under subsection (a) may not exceed 75 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or poverty level, in which case the grant may cover up to 100 per centum of such costs.

"(d) Of the sums appropriated under section 1613 for a fiscal year, there shall be made available for grants under subsection (a) for such fiscal year 22 per centum of such sums.

"GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

"SEC. 1622. (a)(1) The Secretary may not approve a loan guarantee for a project under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

"(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including

terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

"(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this title will be achieved.

"(b)(1) The Secretary may not approve a loan under this part unless—

"(A) the Secretary is reasonably satisfied that the applicant under the project for which the loan would be made will be able to make payments of principal and interest thereon when due, and

"(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

"(2) Any loan made under this part shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this part, minus 3 per centum per annum, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

"(C)(1) The Secretary shall from time to time, but with due regard to the financial interests of the United States, sell loans made under this part either on the private market or to the Federal National Mortgage Association in accordance with section 302 of the Federal National Mortgage Association Charter Act or to the Federal Financing Bank.

"(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loans as of time of sale.

"(3)(A) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees—

"(i) to guarantee to such purchaser (and any successor in interest to such purchaser) payments of the principal and interest payable under such loan, and

"(ii) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which, when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

"(B) Any agreement under subparagraph (A)—

"(i) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the entity to which such loan was made and paying over to such purchaser any payments of principal and interest payable by such entity under such loan;

"(ii) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

"(iii) shall provide that, in the event of any default by the entity to which such loan was made in payment of principal or interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

"(iv) shall provide that, in the event such loan is closed out as provided in clause (iii), or in the event of any other loss incurred by the Secretary by reason of the failure of such entity to make payments of principal or interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such entity.

"(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the fund established under subsection subsection (d).

"(d)(1) There is established in the Treasury a loan and loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts—

"(A) to enable him to make loans under this part,

"(B) to enable him to discharge his responsibilities under loan guarantees issued by him under this part,

"(C) for payment of interest under section 1620 (b)(2) on loans guaranteed under this part,

"(D) for repurchase of loans under subsection (c)(3)(B), and

"(E) for payment of interest on loans which are sold and guaranteed.

There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the

fund. There shall also be deposited in the fund amounts received by the Secretary in connection with loans and loan guarantees under this part and other property or assests derived by him from his operations, respecting such loans and loan guarantees, including any money derived from the sale of assets.

"(2) If at any time the sums in the funds are insufficient to enable the Secretary—

"(A) to make payments of interest under section 1620(b)(2),

"(B) to otherwise comply with guarantees under this part of loans to nonprofit private entities,

"(C) in the case of a loan which was made, sold, and guaranteed under this part, to make to the purchaser of such loan payments of principal and interest on such loan after default by the entity to which the loan was made, or

"(D) to repurchase loans under subsection (c)(3)(B), and

(E) to make payments of interest on loans which are sold and guaranteed,

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as a public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

"(e)(1) The assets, commitments, obligations, and outstanding balances of the loan guarantee and loan fund established in the Treasury by section 626 shall be transferred to the fund established by subsection (d) of this section.

"(2) To provide additional capitalization for the fund established under subsection (d) there are authorized to be appropriated to the fund, such sums as may be necessary for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.

"Part D—Project Grants

"PROJECT GRANTS

"Sec. 1625. (a) The Secretary may make grants for construction or modernization projects designed to (1) eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or

life safety codes or regulations, or (2) avoid noncompliance with State or voluntary licensure or accreditation standards. A grant under this subsection may only be made to a State or political subdivision of a State, including any city, town, county, borough, hospital district authority, or public or quasi-public corporation, for a project described in the preceding sentence for any medical facility owned or operated by it.

"(b) An application for a grant under subsection (a) may not be approved under section 1604 unless it contains assurances satisfactory to the Secretary that the applicant making the application would not be able to complete the project for which the application is submitted without the grant applied for.

"(c) The amount of any grant under subsection (a) may not exceed 75 per centum of the cost of the project for which the grant is made unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the grant may cover up to 100 per centum of such costs.

"(d) Of the sums appropriated under section 1613 for a fiscal year, there shall be made available for grants under subsection (a) for such fiscal year 22 per centum of such sums.

"PART E—GENERAL PROVISIONS

"JUDICIAL REVIEW

"SEC. 1630. If—

"(1) the Secretary refuses to approve an application for a project submitted under section 1604, the State Agency through which such application was submitted, or

"(2) any State is dissatisfied with, or any entity will be adversely affected by, the Secretary's action under section 1612, such State or entity,

may appeal to the United States court of appeals for the circuit in which such State Agency, State, or entity is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of

proceedings under this section shall not, unless so specifically ordered by the Court, operate as a stay of the Secretary's action.

"RECOVERY

"SEC. 1631. (a) If any facility constructed, modernized, or converted with funds provided under this title is, at any time within twenty years after the completion of such construction, modernization, or conversion with such funds—

"(1) sold or transferred to any person or entity (A) which is not qualified to file an application under section 1604, or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor; or

"(2) not used as a medical facility, and the Secretary has not determined that there is good cause for termination of such use, the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction, modernization, or conversion of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

"(b) The Secretary may waive the recovery rights of the United States under subsection (a) with respect to a facility in any State—

"(1) if (as determined under regulations prescribed by the Secretary) the amount which could be recovered under subsection (a) with respect to such facility is applied to the development, expansion, or support of another medical facility located in such State which has been approved by the Statewide Health Coordinating Council for such State as consistent with the State health plan established pursuant to section 1524(c); or

"(2) if the Secretary determines, in accordance with regulations, that there is good cause for waiving such requirement with respect to such facility.

If the amount which the United States is entitled to recover under subsection (a) exceeds 90 per centum of the total cost of the construction or modernization project for a facility, a waiver under this subsection shall only apply with respect to an amount which is not more than 90 per centum of such total cost. The Secretary may not waive a right of recovery which arose one year before the date of the enactment of this title.

"STATE CONTROL OF OPERATIONS

"SEC. 1632. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this title.

"DEFINITIONS

"SEC. 1633. For the purposes of this title—

"(1) The term 'State' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

"(2) The term 'Federal share' means the proportion of the cost of a medical facilities project which the State Agency determines the Federal Government will provide under allotment payments or a loan or loan guarantee under this title, except that—

"(A) in the case of a modernization project—

"(i) described in section 1604(b)(2)(B), and

"(ii) the application for which received a waiver under section 1604(b)(2)(A),

the proportion of the cost of such project to be paid by the Federal Government under allotment payments or a loan may not exceed $20,000 and may not exceed 100 per centum of the first $6,000 of the cost of such project and 66⅔ per centum of the next $21,000 of such cost,

"(B) in the case of a project (other than a project described in subparagraph (A)) to be assisted from an allotment made under part B, the proportion of the cost of such project to be paid by the Federal Government may not exceed 66⅔ unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the proportion of the cost of such project to be paid by the Federal Government may be 100 per centum, and

"(C) in the case of a project (other than a project described in subparagraph (A)) to be assisted with a loan or loan guarantee made under part C, the principal amount of the loan directly made or guaranteed for such project, when added to any other assistance provided the project under this title, may not exceed 90 per centum of the cost of such project unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the principal amount, when added to other assistance under this title, may cover up to 100 per centum of the cost of the project.

"(3) The term 'hospital' includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professional personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

"(4) The term 'public health center' means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

"(5) The term 'nonprofit' as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or

may lawfully inure, to the benefit of any private shareholder or individual.

"*(6) The term 'outpatient medical facility' means a medical facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients)—*

"*(A) which is operated in connection with a hospital,*

"*(B) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or*

"*(C) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.*

"*(7) The term 'rehabilitation facility' means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—*

"*(A) medical evaluation and services, and*

"*(B) psychological, social, or vocational evaluation and services,*

under competent professional supervision, and in the case of which the major portion of the required evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

"*(8) The term 'facility for long-term care' means a facility (including a skilled nursing or intermediate care facility) providing inpatient care for convalescent or chronic disease patients who require skilled nursing or intermediate care and related medical services—*

"*(A) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients) or is operated in connection with a hospital, or*

"*(B) in which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.*

"*(9) The term 'construction' means construction of new buildings and initial equipment of such buildings and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.*

"*(10) The term 'cost' as applied to construction, modernization, or conversion means the amount found by the Secretary to be necessary for construction, modernization, or conversion, respectively, under a project, except that, in the case of a modernization project or a project assisted under part D, such term does not include any amount found by the Secretary to be attributable to expansion of the bed capacity of any facility.*

"*(11) The term 'modernization' includes the alteration, expansion, major repair (to the extent permitted by regulations), remodeling,*

replacement, and renovation of existing buildings (including initial equipment thereof), and the replacement of obsolete equipment of existing buildings.

"(12) The term 'title.' when used with reference to a site for a project. means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than twenty-five years' undisturbed use and possession for the purposes of construction, modernization, or conversion and operation of the project for a period of not less than (A) twenty years in the case of a project assisted under an allotment or grant under this title, or (B) the term of repayment of a loan made or guaranteed under this title in the case of a project assisted by a loan or loan guarantee.

"(13) The term 'medical facility' means a hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, or other facility (as may be designated by the Secretary) for the provision of health care to ambulatory patients.

"(14) The term 'State Agency' means the State health planning and development agency of a State designated under title XIV.

"(15) The term 'urban or rural poverty area' means an urban or rural geographical area (as defined by the Secretary) in which a percentage (as defined by the Secretary in accordance with the next sentence) of the residents of the area have incomes below the poverty level (as defined by the Secretary of Commerce). The percentage referred to in the preceding sentence shall be defined so that the percentage of the population of the United States residing in urban and rural poverty areas is—

"(A) not more than the percentage of the total population of the United States with incomes below the poverty level (as so defined) plus five per centum, and

"(B) not less than such percentage minus five per centum.

"(16) The term 'medically underserved population' means the population of an urban or rural area designated by the Secretary as an area with a shortage of health facilities or a population group designated by the Secretary as having a shortage of such facilities.

"FINANCIAL STATEMENTS; RECORDS AND AUDIT

"SEC. 1634. (a) In the case of any facility for which an allotment payment, grant, loan, or loan guarantee has been made under this title, the applicant for such payment, grant, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at least annually with the State Agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

"(1) the financial operations of the facility, and

"(2) the costs to the facility of providing health services in the facility and the charges made by the facility for providing such services,

during the period with respect to which the statement is filed.

"(b)(1) *Each entity receiving Federal assistance under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such entity of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.*

"(2) *The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such entities which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the assistance referred to in paragraph (1).*

"(c) *Each such entity shall file at least annually with the Secretary a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—*

"(1) *the financial operations of the facility constructed or modernized with such assistance, and*

"(2) *the costs to such facility of providing health services in such facility, and the charges made for such services, during the period with respect to which the statement is filed.*

"TECHNICAL ASSISTANCE

"SEC. *1635. The Secretary shall provide (either through the Department of Health, Education, and Welfare or by contract) all necessary technical and other nonfinancial assistance to any public or other nonprofit entity which is eligible to apply for assistance under this title to assist such entity in developing applications to be submitted to the Secretary under section 1604. The Secretary shall make every effort to inform eligible applicants of the availability of assistance under this title.*

"PART F—AREA HEALTH SERVICES DEVELOPMENT FUNDS

"DEVELOPMENT GRANTS FOR AREA HEALTH SERVICES DEVELOPMENT FUNDS

"SEC. *1640. (a) The Secretary shall make in each fiscal year a grant to each health system agency—*

"(1) *with which there is in effect a designation agreement under section 1515(c),*

"(2) *which has in effect an HSP and AIP reviewed by the Statewide Health Coordinating Council, and*

"(3) *which as determined under the review made under section 1535(c), is organized and operated in the manner prescribed by section 1512(b) and is performing its functions under section 1513 in a manner satisfactory to the Secretary,*

to enable the agency to establish and maintain an Area Health Services Development Fund from which it may make grants and enter into contracts in accordance with section 1513(c)(3).

"(b)(1) *Except as provided in paragraph (2), the amount of any grant under subsection (a) shall be determined by the Secretary after taking into consideration tohe population of the health service area*

for which the health systems agency is designated, the average family income of the area and the supply of health services in the area.

"(2) The amount of any grant under subsection (a) to a health systems agency for any fiscal year may not exceed the product of $1 and the population of the health service area for which such agency is designated.

"(c) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by, the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may require.

"(d) For the purpose of making payments pursuant to grants under subsection (a), there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, and $120,000,000 for the fiscal year ending June 30, 1977."

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

SEC. 5 (a) (1) There are authorized to be appropriated for the fiscal year ending June 30, 1975, and the next fiscal year such sums as may be necessary to make grants under section 314(a) of the Public Health Service Act, except that no grant made to a State with funds appropriated under this paragraph shall be available for obligation beyond—

(A) three months after the date on which a State health planning and development agency is designated for such State under section 1421 of such Act, or

(B) June 30, 1976,

whichever is later.

(2) There are authorized to be appropriated for the fiscal year ending June 30, 1975, and the next fiscal year such sums as may be necessary to make grants under section 304 of the Public Health Service Act for experimental health services delivery systems, section 314(b) of such Act, and title IX of such Act, except that no grant made with funds appropriated under this paragraph shall be available for obligation beyond the later of (A) June 30, 1976, or (B) three months after the date on which a health systems agency has been designated under section 1415 of such Act for a health service area which includes the area of the entity for which a grant is made under such section 304, 314(b), or title IX.

(b) Any State which has in the fiscal year ending June 30, 1975, or the next fiscal year funds available for obligation from its allotments under part A of title VI of the Public Health Service Act may in such fiscal year use for the proper and efficient administration during such year of its State plan approved under such part an amount of such funds which does not exceed 4 per centum of such funds or $100,000, whichever is less.

(c) A reference in any law or regulation—

(1) to the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) of the Public Health Service Act shall in the case of a State for which a State health planning and development agency has been designated under sec-

tion 1521 of such Act be considered a reference to the State agency designated under such section 1521;

(2) to an agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) of the Public Health Service Act shall if all or part of the area covered by such plan or plans is within a health service area established under section 1511 of the Public Health Service Act be considered a reference to the health systems agency designated under section 1515 of such Act for such health service area; and

(3) to a regional medical program assisted under title IX of the Public Health Service Act shall if the program is located in a State for which a State health planning and development agency has been designated under section 1521 of the Public Health Service Act be considered a reference to such State agency.

(d) Section 316 of the Public Health Service Act is repealed.

ADVISORY COMMITTEES

SEC. 6. (a) An advisory committee esablished by or pursuant to the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after the date of the enactment of this Act.

(b) The Secretary of Health, Education, and Welfare shall report, within one year after the date of the enactment of this Act, to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (1) the purpose and use of each advisory committee established by or pursuant to the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and (2) his recommendations respecting the termination of each such advisory committee.

AGENCY REPORTS

SEC. 7. The Secretary of Health, Education, and Welfare shall report, within one year of the date of the enactment of this Act, to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (1) the identity of each report required to be made by the Secretary under the Pubic Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to the Congress (or any committee thereof), (2) the provision of such Acts which requires each such report, (3) the purpose of each such report, and (4) the due date for each such report. The report of the Secretary under this section may include such recommendations as he considers appropriate for termination or consolidation of any such reporting requirements.

TECHNICAL AMENDMENT

SEC. 8. Section 1305(b)(1) of the Public Health Service Act is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under this section for a health maintenance organization may not exceed $2,500,000. In any fiscal year, the amount disbursed under a loan or loans made or guaranteed under this section for a health maintenance organization may not exceed $1,000,000,000."

And the House agree to the same.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID SATTERFIELD,
PETER N. KYROS,
RICHARDSON PREYER,
J. W. SYMINGTON,
WM. R. ROY,
S. L. DEVINE,
ANCHER NELSEN,
TIM LEE CARTER,
J. F. HASTINGS,
H. JOHN HEINZ III,
WILLIAM HUDNUT,
Managers on the Part of the House.

EDWARD KENNEDY,
HARRISON WILLIAMS,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ALAN CRANSTON,
HAROLD E. HUGHES,
CLAIBORNE PELL,
WALTER F. MONDALE,
WILLIAM D. HATHAWAY,
DICK SCHWEIKER,
J. JAVITS,
PETER H. DOMINICK,
J. GLENN BEALL, JR.,
ROBERT TAFT, JR.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2994) to amend the Public Health Service Act to assure the development of a national health policy and of effective State and area health planning and resources development programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Health Planning and Development

SHORT TITLE

The Senate bill provides that the Act may be cited as the "National Health Planning and Development and Health Facilities Assistance Act of 1974," (section 1).

The House amendment provides that the Act may be cited as the "National Health Policy, Planning, and Resources Development Act of 1974," (section 1).

The conference substitute provides that the Act may be cited as the "National Health Planning and Resources Development Act of 1974," (section 1).

FINDINGS

The House amendment specifies Congressional findings, for which there are no corresponding findings in the Senate bill, respecting health care costs, the role of providers, the public's knowledge regarding proper personal health care and use of services, and the result of assistance available to date for health care. The House amendment further states a purpose, not included in the Senate bill, to the effect that the general purpose of the Act is facilitating the development of recommendations for a national health policy, of State and regional health planning, and of resources which will further the national health policy, (sections 2(a) and 1403).

The conference substitute conforms to the House amendment, (section 2(a)).

NATIONAL HEALTH PRIORITIES

Both the Senate bill and House amendment specify Congressional findings respecting national health priorities. These are identical except that:

(1) The third Senate priority refers to the development of medical group practices, health maintenance organizations and other organized systems, while the House amendment refers only to medical group practices.

The conference substitute conforms to the Senate bill.

(2) The fourth priority in the Senate bill refers to the training and increased use of physician extenders, while the corresponding priority in the House amendment refers to physicians' assistants, especially nurse clinicians. The conference substitute conforms to the House amendment.

(3) The eighth priority in the Senate bill referring to the promotion of activities for the prevention of disease is not included in the House amendment. The conference substitute conforms to the Senate bill (Senate section 1402, House section 1403, conference substitute section 1502).

NATIONAL GUIDELINES FOR HEALTH PLANNING AND NATIONAL HEALTH POLICY

Formulation

The Senate bill requires the Secretary, within one year of enactment, to issue guidelines concerning national health planning policy. The guidelines are to include standards respecting the appropriate supply, distribution, and organization of health resources, and a statement of national health planning goals (sections 1401 and 1403).

The House amendment requires the Secretary to establish a National Council for Health Policy which is to develop and recommend a national health policy including a statement of recommended national health goals and recommended guidelines for health resources and services (sections 1401 and 1402).

The conference substitute conforms to the Senate bill except that the Secretary is to issue guidelines within 18 months of enactment and is to revise them periodically as necessary (section 1501).

NATIONAL ADVISORY COUNCIL ON HEALTH PLANNING AND DEVELOPMENT AND NATIONAL COUNCIL FOR HEALTH POLICY

Establishment of Council

The Senate bill establishes in the Department of Health, Education, and Welfare a National Advisory Council on Health Planning and Development (section 1403(a)).

The House amendment requires the Secretary to establish a National Council for Health Policy (section 1401(a)).

The conference substitute conforms to the Senate bill and establishes a National Council on Health Planning and Development (section 1503(a)).

Composition of Council

The Senate bill requires that the National Advisory Council on Health Planning and Development have:

(1) Twelve members, nine of whom are to be voting members,

(2) Not less than four nonproviders among the voting members,

(3) Not more than three Federal Government employees among the voting members,

(4) Not more than five of the voting members from the same political party, and

(5) Three nonvoting ex-officio members including the Chief Medical Director of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, and the Assistant Secretary for Health of the Department of Health, Education, and Welfare (section 1403(b)(1)).

The House amendment requires that the National Council for Health Policy have:

(1) Fifteen members,

(2) Not less than five nonprovider members.

(3) Not more than three Federal Government employees, and

(4) Not more than eight members from the same political party (section 1401(b)(1)).

The conference substitute requires the National Council on Health Planning and Development to have:

(1) Fifteen members, twelve of whom are to be voting members,

(2) Not less than five nonprovider members,

(3) Not more than three Federal Government employees among the voting members,

(4) Equal representation among the twelve voting members from each major political party, and

(5) Three nonvoting ex-officio members including the Chief Medical Director of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, and the Assistant Secretary for Health of the Department of Health, Education, and Welfare (section 1503(b)(1)).

Functions of Council

The Senate bill specifies as the function of the National Advisory Council on Health Planning and Development advising, consulting with, and making recommendations to the Secretary with respect to the development of national guidelines for health planning (section 1403(a)).

The House amendment specifies as the functions of the National Council for Health Policy:

(1) Developing and recommending a national health policy,

(2) Recommending guidelines for appropriate supply, distribution, and organization of health resources and services,

(3) Conducting various studies and analyses,

(4) Assessing health status,

(5) Evaluating the implications of advances in biomedical research, health services research, and medical technology for the delivery system, and

(6) Analyzing factors causing inflation and determining means for cost containment (section 1402(a)).

The conference substitute conforms to the Senate bill except that the Council is also to advise, consult with, and make recommendations to the Secretary with respect to activities under new titles XV and XVI generally (section 1503(6)).

In evaluating the implications of new medical technology, the National Advisory Council is to assess the impact of devoting resources to such technology upon other health care programs, and the potential for the equitable distribution of that technology among all Americans.

Council's Responsibilities for Consulting

The House amendment contains a provision, not included in the Senate bill, which requires the Council to include specialty societies representing medical and other health care providers among the groups and entities with which it consults in carrying out its functions (section 1402(a)).

The conference substitute conforms to the House amendment (section 1501(c)), except that requirement applies to the Secretary rather than the Council.

Reports

The House amendment contains a provision, not included in the Senate bill, which requires the Council to submit annually to the President, the Congress, and the public a comprehensive report specifying the results of its activities, section 1402(b).

The conference substitute conforms to the Senate bill.

AREA PLANNING AGENCIES

Agency Name

The Senate bill refers to area health planning and development agencies as "health planning agencies".

The House amendment refers to such agencies as "health systems agencies".

The conference substitute conforms to the House amendment.

DESIGNATION CRITERIA

General

The Senate bill requires health service areas to be geographic regions appropriate for the effective planning and development of health services, determined on the basis of population and the availability of resources to provide all necessary health services (section 1411(a)(1)).

The House amendment requires health service areas to be rational geographic regions with a comprehensive range of health services available and of a "character suitable for the effective planning and development of health services" (section 1411(a)(1)).

The conference substitute conforms to the Senate bill (section 1511(a)(1)).

The Senate bill further contains a provision, not included in the House amendment, which gives the Secretary specific authority to prescribe regulations respecting requirements for health service areas (section 1411(a)).

The conference substitute conforms to the House amendment. Because of the Conferees' desire to select most Health Systems Agencies in 1975, the area designation process in the bill is designed to be self-executing. Therefore, no implementing regulations are necessary and the designation process should begin immediately after enactment.

GEOGRAPHICAL JURISDICTION OF AGENCIES

Name

The Senate bill refers to health planning areas as "health areas" (section 1411).

The House amendment refers to such areas as "health service areas" (section 1411).

The conference substitute conforms to the House amendment (section 1511).

DESIGNATION CRITERIA

Population

The House amendment contains requirements for the maximum and minimum populations of health service areas which are not included in the Senate bill. These specify a maximum population of three million people except that the population may exceed three million if the area includes an SMSA with a population of more than 3 million (section 1411(a)(3)(A)), and a minimum population of 500,000 except that the population may go down to 200,000 in "unusual circumstances" and below 200,000 in "highly unusual circumstances" (section 1411(a)(3)(B)).

The conference substitute conforms to the House amendment (section 1511(a)(3)).

OTHER DESIGNATION CRITERIA

The House amendment contains a provision, not included in the Senate bill, which requires that the boundaries of health service areas be coordinated, if feasible, with the boundaries of PSRO's, existing regional planning areas, and State planning and administrative areas (section 1411(a)(4)).

The conference substitute conforms to the House amendment (section 1511(a)(4)).

The Senate bill contains a provision, not included in the House amendment, which specifies that health service area boundaries may cross a State boundary only if it is determined that such an area is more appropriate for effective planning and development (section 1411(a)(3)).

The conference substitute conforms to the House amendment.

The Senate bill specifies that health service area boundaries may not cross those of an SMSA unless the Secretary waives such requirement (section 1411(a)(4)).

The House amendment specifies that each SMSA is to be entirely contained within the boundaries of one health service area, except if the Governor of each State in which an SMSA is located determines, with the Secretary's approval, otherwise (section 1411(a)).

The conference substitute conforms to the House amendment (section 1511(a)).

The Senate bill contains a provision, not included in the House amendment, which specifies that, notwithstanding any other requirement, the boundaries of health service areas are to follow those of existing 314(b) comprehensive health planning agencies unless the Governor of the appropriate State finds that another area is more appropriate and waives this requirement (section 1411(a)(5)).

The conference substitute conforms to the Senate bill except that existing 314(b) areas are to be designated as health service areas only if they meet all of the other requirements for designation (section 1511(c)).

The House amendment contains a provision, not included in the Senate bill, which requires the boundaries of a health service area to be established so that, in the planning and development of health services to be offered within the area, any economic or geographic barrier to the receipt of such services in nonmetropolitan areas is taken into account. The boundaries of health service areas are also to be established so as to recognize the differences in health planning and health services development needs between nonmetropolitan and metropolitan areas (section 1411(a)).

The conference substitute conforms to the House amendment (section 1511(a)).

DESIGNATION PROCESS

The Senate bill authorizes the Secretary to prescribe regulations for the designation of health service areas and requires that:

(1) Within 120 days of enactment, the Secretary notify the Governors of the States of the initiation of proceedings to establish health service areas,

(2) Within 120 days of the date on which such notice is given, the Secretary publish in the *Federal Register* the boundary designations submitted to him,

(3) Opportunity to be provided by the Secretary for interested persons to comment on submitted boundaries and any boundaries proposed by the Secretary for areas not covered by the boundaries submitted by the Governors, and

(4) Health service areas established within one year of the date of enactment of the Act (section 1411(b)).

The House amendment requires that:

(1) Within 30 days of enactment, the Secretary notify the Governors of the States of the initiation of the area designation process, and

(2) Within 150 days of the date on which such notice is given, the Secretary publish the designations submitted as a notice in the *Federal Register* (section 1411(b)).

The conference substitute requires that:

(1) Within 30 days of enactment, the Secretary notify the Governors of the States of the initiation of the area designation process,

(2) Within 210 days of enactment, the Secretary publish the designations submitted as a notice in the *Federal Register*, and

(3) Within one year of the date of enactment, health service areas be established (section 1511(b)).

REVISION OF BOUNDARIES

The Senate bill specifies that boundary revisions can be initiated by the Secretary, Governor, or designated health systems agency; however, boundaries are to be revised only if the Secretary determines that a boundary no longer meets the specified requirements (section 1411(b)).

The House amendment is similar to the provision of the Senate bill except that only the Governor is given authority to initiate boundary revisions (section 1411(b)).

The conference substitute conforms to the Senate bill (section 1511(b)).

AGENCY STRUCTURE

Eligible Entities

The Senate bill specifies that a health system agency may be either a public entity or a non-profit private corporation (section 1412(a)).

The House amendment is similar to the Senate provision except that it specifies that public entities which may be designated as health systems agencies are to be:

(1) Public regional planning bodies which either have a governing board composed of a majority of elected officials of units of general local government or are authorized by State law (in effect before the date of enactment) to carry out health planning and review functions such as those described in section 1413, and which have planning areas identical to the applicable health service areas, or

(2) Single units of general local government if the area of jurisdiction of such units is identical to the applicable health service area (section 1412(b)(1)).

The conference substitute conforms to the House amendment (section 1512(b)(1)).

The Senate bill further specifies that if a health systems agency is a public entity (other than an existing 314(b) agency) it must have a separate governing body for health planning (section 1412(b)(1)(B)).

The House amendment specifies that, if the agency is a public entity, there shall be an advisory health council which shall advise the governing body of the agency. The composition of such council shall conform to the requirements applicable to governing bodies of private agencies. If the governing body of a public health systems agency makes decisions which conflict with the recommendations of its advisory council, the advisory health council recommendations are to be made public, and as appropriate, reported to the Secretary, the SHCC, or the State agency (section 1312(b)(5)).

The conference substitute conforms to the Senate bill except that the waiver for existing, public 314(b) agencies is not included (section 1512(b)(3)(A)). The conferees noted their desire that the Secretary consider designating as health systems agencies agencies which have served as 314(b) agencies even if their funding came from sources other than 314(b) such as under the programs authorized by the Appalachian Regional Development Act of 1965.

In addition, the Senate bill contains a provision, not included in the House amendment, which states that a health systems agency may not be an educational institution or operate such an institution (section 1412(b)(1)(C)).

The conference substitute conforms to the Senate bill (section 1512(b)(1)).

The Senate bill, finally, contains a provision, not included in the House amendment, which states that if a health systems agency is a private entity it may engage only in the activities of health systems agencies listed in the Act (section 1412(b)(1)(A)).

The conference substitute specifies that a private health systems agency may only engage in health planning and development functions without limiting this to only the functions specifically listed (section 1512(b)(1)(A)).

GOVERNING BODY

Responsibilities

The Senate bill contains a provision, not included in the House amendment, which requires the governing body to be responsible for the approval of all actions taken respecting proposed uses of Federal funds and the need for new and existing institutional health services and facilities (section 1412(b)(4)(B)).

The conference substitute conforms to the Senate bill (section 1512(b)).

The House amendment contains a provision, not included in the Senate bill, which requires that a health systems agency in making its records and data available to the public conform to confidentiality requirements prescribed by the Secretary to protect the confidentiality of matter comparable to matter described in 5 U.S.C. 552(b). A similar requirement is applicable to State Agencies (sections 1412(b)(3)(B) and 1432(b)(9)).

The conference substitute conforms to the Senate bill.

The Senate bill specifies that a quorum of the governing body (or executive committee) shall be not less than one-half of its members; and that the governing body (and executive committee) shall act only by vote of a majority of its members present and voting at a meeting called upon adequate notice and at which a quorum is present (section 1412(b)(4)(B)).

The House amendment specifies that a quorum for a governing body (and executive committee) shall be a majority of the membership (section 1412(b)(3)(B)).

The conference substitute conforms to the Senate bill (section 1512(b)).

Composition

The Senate bill requires a majority of consumers (not to exceed 60 percent) who are not and have not within the twelve months preceding appointment been providers and who are not governmental representatives (section 1412(b)(4)(C)).

The House amendment requires one-half plus one consumers who are not providers (section 1412(b)(3)(C)).

The conference substitute reflects a compromise requiring a majority of consumers (not to exceed 60 percent) with the remainder being providers.

The Senate bill specifies that the remainder of the members are to be governmental representatives and providers including a designated VA representative if a VA facility is located within the health service area and at least one health maintenance organization representative if there is an HMO in the area (section 1412(b)(4)).

The House amendment requires that the remainder of the members be providers and further specifies that the governing body shall include governmental representatives either as consumers or providers (section 1412(b)(3)(C)).

The conference substitute conforms to the Senate bill regarding VA and HMO representatives; however, governmental representatives shall be included as either consumers or providers (section 1512(b)(3)(C)).

The Senate bill contains a provision which requires that executive committees and subarea councils and subcommittees and advisory groups, to the extent practicable, meet composition requirements (section 1412(b)(4)(C)) and (section 1412(c)).

The House amendment specifies that executive committees and subarea councils must meet composition requirements (section 1412(b)(3)(C) and section 1412(c)).

The conference substitute conforms to the Senate bill.

The House amendment contains a provision, not included in the Senate bill, which requires that the membership of the governing body and executive committee (if any) of an agency shall include a percentage of individuals who reside in nonmetropolitan areas equal to the percentage of residents of the area who reside in nonmetropolitan areas (section 1412(b)(3)(C)).

The conference substitute conforms to the House amendment (section 1512(b)(3)(C)).

The House amendment also contains a provision, not included in the Senate bill, which requires that not less than one-third of the provider members shall be "direct" providers of health care (section 1412(b)(3)(C)).

The conference substitute conforms to the House amendment (section 1512(b)(3)(C)).

STATEMENT OF LIABILITY

The Senate bill contains a provision, not included in the House amendment, which states that a member or employee of a health systems agency is not liable for damage under Federal or State law for performance of the functions or duties of the agency authorized or required under the Act (section 1412(5)).

The conference substitute conforms to the Senate bill (section 1412(b)(4)).

STAFF

Separation of Functions

The Senate bill contains a provision, not included in the House amendment, which requires separate staffs for planning and development, but only one staff director (section 1412(b)(3)).

The conference substitute conforms to the Senate bill except that the word "separate" and the requirement for only one staff director are dropped (section 1412(b)(2)).

CONSULTANTS AND CONTRACT SERVICES

The Senate bill contains a provision, not included in the House amendment, which specifically authorizes health systems agencies to employ consultants and contract for the provision of services where necessary to perform its functions (section 1412(b)(3)).

The conference substitute conforms to the Senate bill (section 1412 (b)(2)(B)).

AGENCY DESIGNATION PROCESS

Time Requirement

The Senate bill contains a provision, not included in the House amendment, which requires the Secretary to enter into designation agreements (conditional or final) within 18 months of the date of enactment (section 1415(a)).

The conference substitute conforms to the Senate bill (section 1515 (a)). The Secretary should make every attempt to secure an approvable application for the designation of a health systems agency for each health service area within 18 months of enactment. To the extent it is impossible to designate an agency, because there is no eligible applicant, the Secretary should make every effort to promote such an application at the earliest possible time.

Consultation/Approval

The Senate bill specifies that the Secretary must consult with the Governors and other State and local officials in designating health systems agencies (section 1415(b)(4)(C) and section 1415(c)(2)).

The House amendment requires the Governors' approval for the designation of health systems agencies (section 1415(b)(4)(C) and section 1415(c)(2)).

The conference substitute conforms to the Senate bill.

Termination by Secretary of Final Designation

The Senate bill contains a provision, not included in the House amendment, which states that the Secretary must provide an agency with an opportunity for a hearing in accordance with 5 U.S.C. 554 (formal hearing) (section 1415(c)(1)).

The conference substitute conforms to the House amendment. The conferees concluded that a formal hearing prior to terminating an agreement with either a health systems agency or a State Agency is unduly cumbersome. The conferees intend that, in terminating designation of a health systems agency or a State Agency, the Secretary shall by regulation assure that the agency is afforded due process and is provided with notice and opportunity for hearing that it is not complying with or effectively carrying out the provisions of such agreement.

AGENCY FUNCTIONS

Names of Plans

The Senate bill specifies that the health planning agencies are to annually establish Long-Range Goal Plans (LGP) and Short-Term Priorities Plans (SPP) (section 1413(b)).

The House amendment specifies that the health systems agencies are to annually establish Health Systems Plans (HSP) and Annual Implementation Plans (AIP) (section 1413(b)).

The conference substitute conforms to the House amendment (section 1513(b)(3)).

Review by Secretary

The Senate bill contains a provision, not included in the House amendment, which authorizes the Secretary to review plans (must consult with appropriate SHCC) and require modifications if a plan is not consistent with the purposes of this title (section 1413(b)(2)).

The conference substitute conforms to the House amendment.

Procedure for Establishment

The Senate bill contains a provision, not included in the House amendment, which specifies that the agencies are required to hold public hearings on plans (after 30 days' notice) and give interested persons opportunities to comment (section 1432(a)).

The conference substitute conforms to the Senate bill but the requirement applies only to the health systems plan (section 1513(b)(2)). It is anticipated that adequate notice and opportunity for comment will be required prior to the adoption of the annual implementation plan and other planning documents.

Financial Assistance for Implementation of Plans

The Senate bill contains a provision that there be no dollar limit on grants or contracts made from an agency's Development Fund but that assistance for any project or program be limited to three years (section 1413(c)(3)).

The House amendment specifies that no grant or contract may exceed $75,000 per year. Assistance is to be limited to two years for any one project or program (section 1413(c)(3)).

The conference substitute in the form of a compromise:

(1) requires that there be a two-year limit on the period of assistance, and

(2) specifies that there be no limit on the dollar amount of assistance (section 1513(c)(3)).

The conferees noted their expectation, however, that those instances in which a grant or contract awarded under this provision would exceed $100,000 would be relatively rare. However, it is hoped that those programs which, in the judgment of the local health systems agency, merit continued support, and conform to the goals of the health systems plan, will be given appropriate priority.

The House amendment contains a provision, not included in the Senate bill, which specifies that no grant or contract may be made for support of established programs or the delivery of health services (section 1413(c)(3)).

The conference substitute as a compromise specifies that no grant or contract may be made for the delivery of health services (as defined in regulations) (section 1513(c)(3)).

The House amendment contains a provision, not included in the Senate bill, which specifies that no grant may be made to an agency

for its Area Health Services Development Fund unless the agency, as determined under review by the Secretary, is organized and operated as required and is performing its functions in a manner satisfactory to the Secretary (section 1540(a)(3)).

The conference substitute conforms to the House bill.

The Senate bill authorizes to be appropriated for the Agency Development Fund:

Fiscal years:	*Millions*
1975	$25
1976	75
1977	120

(section 1417(d))

The House amendment authorizes to be appropriated for the Agency Development Fund:

Fiscal years:	*Millions*
1975	$25
1976	100
1977	150

(section 1540(d))

The conference substitute conforms to the Senate bill.

APPROVAL OF PROPOSED USES OF FEDERAL FUNDS

The Senate bill specifies that the health systems agencies are to review and approve or disapprove proposed uses of Federal funds under the PHS Act, the Community Mental Health Centers Act, and the Alcoholism Act except funds under titles IV, VII, and VIII of the PHS Act for other than support of the delivery of health services (section 1413(e)).

The House amendment is the same except that an agency's review and approval or disapproval does not apply to funds under titles IV, VII, and VIII of the PHS Act except when they support the delivery of health services or to funds under the Developmental Disabilities Act (section 1413(e)).

The conference substitute conforms to the Senate bill with the added requirement that applications for funds under titles IV, VII, and VIII for the development of health resources intended to be used within the health service area be subject to review (section 1513(e)(1)).

The Senate bill contains a provision, not included in the House amendment, which requires health systems agencies to review and approve or disapprove proposed uses of Federal formula grant funds within the health service area (section 1413(f)).

The conference substitute conforms to the Senate bill (section 1513(e)(1)).

The Senate bill contains a provision, not included in the House amendment, which specifies that agencies must comment on each application and forward recommendations to the Secretary and the State Agency (section 1413(e)(2)).

The conference substitute conforms to the House amendment.

The Senate bill contains a provision, not included in the House amendment, which specifies that the review function applies to loans

and loan guarantees in addition to grants and contracts (section 1413(e)(1)).

The conference substitute conforms to the Senate bill (section 1513(e)(1).

The House amendment contains a provision, not included in the Senate bill, which specifies that a health systems agency may only review and *comment* on proposed uses of Federal funds for programs or projects located within certain Indian areas. Health systems agencies are to provide Indian organizations with information respecting the availability of Federal funds (section 1413(e)).

The conference substitute conforms to the House amendment (section 1513(e)(1)).

The House amendment, unlike the Senate bill, also authorizes the Secretary to make health planning and development grants to Indian tribes.

The conference substitute conforms to the Senate bill.

REVIEW OF EXISTING SERVICES AND FACILITIES

The Senate bill specifies that each health systems agency shall review on a periodic basis all institutional health services offered and health care facilities and health maintenance organizations located in the health service area and shall make recommendations to the State Agency; this review is not required with respect to services or facilities subject to review under section 1122 of the Social Security Act or subject to a certificate-of-need program enacted by a State prior to the enactment of this section which the Secretary determines substantially meets the requirement of such section 1122, or subject to a certificate-of-need issued under this title. If the State Agency determines that a service or facility is not needed, the health systems agency shall work with the provider of the service or with the facility, the State Agency, and other appropriate persons for the improvement or elimination (as the State Agency and health systems agency determine appropriate) of such service or facility (section 1413(h)).

The House amendment specifies that a health systems agency shall review on a periodic basis all institutional health services offered in the health service area and make recommendations to the State Agency respecting the appropriateness in the area of such services (section 1413(g)).

The conference substitute conforms to the House amendment (section 1513(g)).

FORMULA FOR AGENCY PLANNING GRANTS

Basic Formula

The Senate bill specifies that each health systems agency is to receive $.50 per capita with no maximum dollar amount specified (section 1416(b)(1)).

The House amendment specifies that each health systems agency is to receive $.50 per capita with a maximum grant of $1.5 million (section 1416(b)(1)).

The conference substitute as a compromise specifies a maximum of $3.75 million (section 1516(b)(1)).

CONDITIONS APPLICABLE TO NON-FEDERAL MATCHING MONEYS

Allowable Private Contributions

The Senate bill specifies that a health systems agency may not accept contributions for matching purposes from any individual or private entity having a financial, fiduciary, or other direct interest in the development, expansion, or support of health resources (section 1416(b)(2)(B)).

The House amendment specifies that private contributions shall be limited to five percent of non-Federal funds by any one private contributor (section 1416(b)(2)(B)).

The conference substitute conforms to the Senate bill (section 1516(b)(2)(B)). By including this provision, the conferees hope to preclude, to the greatest extent possible, conflicts of interest inherent in accepting funds from providers of health care whose interests may in any way be affected by decisions or recommendations made by a health systems agency.

Allowable Public Contributions

The Senate bill places no limitations on public contributions.

The House amendment limits public contributions to one-third of non-Federal funds by any one public contributor (section 1416(b)(2)(B)).

The conference substitute conforms to the Senate bill.

Conditions as to Use of Contributions

The House amendment contains a provision, not included in the Senate bill, which specifies that contributions used for matching purposes cannot have conditions as to their use (section 1416(b)(2)(B)).

The conference substitute conforms to the House amendment (section 1516(b)(2)(B)).

Minimum Grant

The Senate bill specifies a minimum planning grant of $220,000 (section 1416(b)(3)).

The House amendment specifies a minimum planning grant of $175,000 (section 1416(b)(3)).

The conference substitute conforms to the House amendment (section 1516(b)(3)).

Receipt of Private Contributions

The Senate bill contains a provision, not included in the House amendment, which specifies that an agency may not receive any contribution from any individual or private entity having direct interest in the development, expansion, or support of health resources (section 1412(b)(6)).

The conference substitute conforms to the Senate bill (section 1512(b)(5)). The conferees noted that this provision would not prohibit agencies from receiving contributions or funds from charitable foundations and organizations or employers offering health benefits

plans, unless the activities of those foundations or organizations within the health service area served by the health systems agency would be affected by recommendations or decisions made by the health systems agency.

State Planning and Development

DESIGNATION OF STATE AGENCY

Termination by the Secretary of Final Designation

The Senate bill contains a provision, not included in the House amendment, which specifies that the Secretary must provide an agency with an opportunity for a hearing in accordance with 5 U.S.C. 554 (formal hearing) (section 1421(b)(3)).

The conference substitute conforms to the House amendment.

Consequence of No Designation Agreement

The Senate bill contains a provision, not included in the House amendment, that specifies if no agreement is in effect upon expiration of the fourth fiscal year, beginning after the calendar year of enactment, no funds under the PHS Act, the Community Mental Health Centers Act, and the Alcoholism Act may be made available for programs in the States (section 1421(d)).

The conference substitute conforms to the Senate bill (section 1521(d)).

STATE ADMINISTRATIVE PROGRAM

Reporting by Providers

The Senate bill contains a provision, not included in the House amendment, which specifies that providers in a State are required by the State administrative program to make statistical and other reports to the State Agency (section 1422(b)(7)).

The conference substitute conforms to the Senate bill (section 1522(b)(7)).

Staff

The House amendment contains a provision, not included in the Senate bill, which specifies that the director of the planning staff of the State Agency be appointed with the advice and consent of the SHCC and that the Secretary may prescribe staff size and qualifications (section 1422(b)).

The conference substitute as a compromise specifies that the Secretary may prescribe staff size and qualifications and drops the requirement that the director of the planning staff of the State Agency be appointed with the advice and constent of the SHCC (section 1522(b)(4).

Hearing Requirement

The Senate bill contains a provision, not included in the House amendment, requiring hearing procedures to be consistent with State administrative law (section 1422(b)(13)).

The conference substitute conforms to the Senate bill (section 1522(b)(13)). The conferees placed their emphasis on the requirement that the hearing mechanism be independent of the State Agency.

Serve as Designated Planning Agency Under Section 1122 of the Social Security Act

The Senate bill specifies that the State Agency performs this function only if the State makes an agreement under section 1122 (section 1423(a)(3)(A)).

The House amendment contains no reference to such an agreement (section 1423(a)(3)(A)).

The conference substitute conforms to the Senate bill (section 1523(a)(4)(A)).

Certificate of Need Program for New Institutional Services

The Senate bill specifies that a certificate-of-need program is required even if the State Agency serves as the designated planning agency under section 1122 (section 1423(a)(3)).

The House amendment provides that such a program is required if the State Agency does not serve as the section 1122 designated planning agency (section 1423(a)(3)).

The conference substitute conforms to the Senate bill (section 1523(a)(4)(B)).

The Senate bill provides that such a program is to require review and determination before services are offered or developed or substantial expenditures are made and is to provide that only services found to be needed may be offered (section 1423(a)(3)).

The House amendment provides that the State Agency is to make findings as to need after consideration of health systems agency recommendations. Such findings are required whether or not the State is serving as the section 1122 designated planning agency or has a certificate-of-need program (section 1423(a)(4)).

The conference substitute includes both provisions (section 1523(a)(4) and (5)).

The Senate bill specifies that a State certificate-of-need program is not required until the expiration of the first regular session of the legislature which begins after the date of enactment (section 1423(b)(2)).

The House amendment specifies that a State certificate of need program is not required until the expiration of the first regular session of the legislature which begins after the date of the first designation of a State Agency (final designation) and at which authorizing legislation may be enacted (section 1423(b)(2)).

The conference substitute conforms to the Senate bill (section 1523(a)(6)).

Review of Existing Services

The Senate bill specifies that a State Agency is to review existing institutional health services and health care facilities and health maintenance organizations and make findings as to continued *need*; except that review and findings are not to apply to services or facilities subject to review under section 1122 or subject to a certificate of need program enacted by a State prior to the enactment of this section which the Secretary determines substantially meets the requirements of section 1122 or subject to a certificate of need issued under the program required for new services and facilities (section 1423(a)(4)).

The House amendment specifies that a State Agency is to review institutional health services being offered respecting their appropriateness and make public its findings for the purpose of informing the providers of such services what voluntary remedial measures may be advisable (section 1423(a)(5)).

The conference substitute conforms to the House amendment except that the State Agency is simply to make public its findings (section 1523(a)(6)).

The conferees have adopted the substance of the House amendment and wish to stress that the purpose of the findings by the State Agency is to inform the public and providers of health services as to the appropriateness of particular services and what, if any, voluntary remedial actions are advisable.

Preparation, Review, Revision of the Preliminary State Health Plan

The Senate bill requires a State agency to prepare and submit to the SHCC for its approval a preliminary long-range State health plan made up of the LGP's of the health planning agencies in the State and a preliminary short-term State health plan made up of the SPP's of the health planning agencies in the State. Preliminary plans may contain revisions of LGPs and SPPs as the State Agency may find necessary for coordination or effectiveness (section 1423(a)(1)).

The House amendment contains no corresponding provision respecting a preliminary State health plan but a State agency is to assist the SHCC in preparation, review, and revision of a State health plan (section 1423(a)(2)).

The conference substitute conforms to the Senate bill except that a State Agency is required to prepare only a single State health plan rather than both a long-range and short-term plan (section 1523(a)(2)).

Rate Review

The Senate bill contains a provision, not included in the House amendment, which specifies that the Secretary may enter into an agreement with a State agency to regulate and establish rates for health services and provide financial assistance for performance of this function. The Senate bill authorizes $10 million for fiscal 1975, $15 million for fiscal 1976, and $20 million for fiscal 1977 for this purpose (section 1424).

The conference substitute provides that the Secretary may make grants for the purpose of demonstrating the effectiveness of rate regulation to a maximum of six States who are regulating, or have indicated their intent to regulate, rates prior to the end of six months after the date of enactment (section 1526). States which are assisted are to meet the various requirements of the Senate provision and are to report annually to the Secretary on the effectiveness of their programs. The Secretary is then to report annually to the Congress on the effectiveness of such rate regulation. Authorization of appropriation for this purpose is given in the amounts of $4 million for fiscal 1975, $5 million for fiscal 1976, and $6 million for fiscal 1977. It is generally anticipated by the conferees that the Secretary will seek to assist a heterogeneous group of States in regulating rates, including large and small States, urban and rural States, and States experiencing high and low medical care costs.

Hill-Burton Agency

The Senate bill specifies that the State Agency is required to serve as the Hill-Burton agency (section 627(12)).

The House amendment specifies that the State Agency may serve as the Hill-Burton agency but another agency of State government may, upon the request of the Governor and under an agreement with the State Agency satisfactory to the Secretary, perform such functions (section 1423(a)(6)(b)(1)).

The conference substitute conforms to the Senate bill (section 1523(b)(1)).

EXTENSION OF SECTION 1122 POLICY TO PRIVATE HEALTH INSURERS

The House amendment contains a provision, not included in the Senate bill, which requires States which participate in section 1122 of the Social Security Act, in lieu of having a certificate of need program, to extend 1122 policy to private health insurers operating within the State (section 1421(d)).

The conference substitute conforms to the Senate bill.

GRANTS TO STATE AGENCIES

Types

The Senate bill specifies that allotments are required to be made to State Agencies on the basis of population and per capita income except that no State is to receive an allotment for a fiscal year which is less than one percent of the appropriation for that year. The Federal share for any State Agency for purposes of this subsection shall not exceed 90 percent of the cost of the performance of such functions as the Secretary may determine. The Secretary may not make payments to a State Agency unless he determines that such payments will not supplant State funds and that the Agency will not reduce non-Federal funds (section 1426).

The House amendment specifies that the Secretary may make grants to State Agencies to assist them in meeting their costs of operation. No grant is to exceed 75 percent of the agency's costs (section 1425).

The conference substitute conforms to the House amendment except that the requirement for maintenance of effort is retained (section 1525(a)).

Authorizations

The Senate bill contains the following authorizations:

Fiscal years:	*Millions*
1975	$25
1976	25
1977	25

(section 1426(c))

The House amendment specifies the following authorizations:

Fiscal years:	*Millions*
1975	$25
1976	35
1977	50

(section 1425(c))

The conference substitute provides for the following compromise:

Fiscal years:	*Millions*
1975	$25
1976	30
1977	35

(section 1525(c))

STATEWIDE HEALTH COORDINATING COUNCIL

General Requirements

The Senate bill contains a provision, not included in the House amendment, which requires that a health systems agency with a Health service area that falls within the boundaries of one or more States must participate in the SHCC for each State (section 1425(b)(1)).

The conference substitute conforms to the Senate bill (section 1524(b)(1)(A)).

In addition, the Senate bill contains a provision, not included in the House amendment, that each health systems agency must assume its share of the costs of operation of the SHCC (section 1425(b)(2)(A)).

The conference substitute conforms to the House amendment.

Thirdly, the Senate bill contains a provision, not included in the House amendment, that the State must contribute 40 percent of the costs of operation if the Governor appoints members to the SHCC (section 1425(b)(2)(B)).

The conference substitute conforms to the House amendment.

Lastly, the Senate bill specifies that agencies must make available their plans for integration into the State health plan and make revisions as required (section 1425(b)(3)).

The House amendment has no corresponding provision, but the SHCC in preparing the State health plan may revise HSP's to achieve appropriate coordination or effectiveness (section 1424(c)(2)).

The conference substitute conforms to the Senate bill but adds to the Senate provision the House specification that the SHCC in preparing the State health plan may revise HSP's to achieve appropriate coordination or effectiveness (section 1524(c)(2)).

COMPOSITION

General Requirements

The Senate bill specifies that a majority of the members shall be consumers who are not providers or governmental representatives (section 1425(c)(1)(C)).

The House amendment is the same as the Senate bill except that governmental representatives may also be consumer members (section 1424(b)(1)).

The conference substitute conforms to the House amendment (section 1524(b)(1)).

The Senate bill further contains a provision, not included in the House amendment, that if two or more VA medical facilities are located in a State, the SHCC shall include in addition to the appointed

members, a VA representative as an ex officio member (section 1425(c)(1)(A)).

The conference substitute conforms to the Senate amendment (section 1524(b)(1)).

The House amendment, finally, contains a provision, not included in the Senate bill, that not less than one third of the members of a SHCC who are providers of health care shall be "direct providers" of health care (section 1424(b)(1)(C)).

The conference substitute conforms to the House amendment (section 1524(b)(1)).

Local Agency Representation

The Senate bill specifies that at least 60 percent of the membership shall be representatives of health systems agencies (section 1425(c)(1)(B)).

The House amendment specifies that at least two thirds of the membership shall be representatives of health systems agencies (section 1424(b)(1)(B)).

The conference substitute conforms to the Senate bill (section 1524(b)(1)).

The Senate bill, in addition, contains a provision, not included in the House amendment, that the Governor is to appoint agency representatives from nominees submitted by the health systems agencies (section 1425(c)(1)(A)).

The conference substitute conforms to the Senate bill (section 1524(b)(1)).

Further, the House amendment contains a provision, not included in the Senate bill, that of the health systems agency representatives, one half shall be consumers and one half shall be providers (section 1424(b)(1)(A)).

The conference substitute requires that at least one half of each HSA's representatives on the SHCC be consumers (section 1524(b)(1)).

Lastly, the Senate bill contains a provision, not included in the House amendment, that if the governing body of a local agency includes a member representative of health maintenance organizations, the SHCC shall include a member representative of HMO's (section 1425(c)(1)(A)).

The conference substitute conforms to the House amendment.

Governor's Representatives

The Senate bill specifies that the number of members appointed by the Governor (other than members from the health systems agencies) may not exceed 40 percent of the total membership (section 1425(c)(1)(B)).

The House amendment specifies that the number of members appointed by the Governor may not exceed one third of the total membership (section 1424(b)(1)(B)).

The conference substitute conforms to the Senate bill (section 1524(b)(1)).

FUNCTIONS: STATE HEALTH PLAN

The Senate bill specifies that the SHCC, taking into account the preliminary State health plans, is to prepare, review, and revise as

necessary a short-term State health plan which is to be made up of the SPP's of the health systems agencies within the State and a long-range State health plan made up of the LGP's of the health systems agencies within the State (section 1425(e)(1)).

The House amendment specifies that the SHCC is to prepare, review, and revise as necessary a State health plan which shall be made up of the HSP's of the health systems agencies within the State (section 1424(c)(2)).

The conference substitute requires only a single State health plan (section 1524(c)(2)).

Further, the Senate bill contains a provision, not included in the House amendment, which requires the SHCC when preparing and/or revising a State health plan to conduct a public hearing on the plan as proposed, publish a notice of its consideration of the proposed plan, and give people an opportunity to submit comments on the plan (section 1432(a)).

The conference substitute conforms to the Senate bill (section 1524(c)(2)).

REVIEW OF LOCAL AGENCY PLANS

The House amendment contains a provision, not included in the Senate bill, that the SHCC is to review annually and coordinate the HSP and AIP of each health systems agency with the State and report to the Secretary its comments on such plans (section 1424(c)(1)).

The conference substitute conforms to the House amendment (section 1524(c)).

DEFINITION OF PROVIDER OF HEALTH CARE

The House amendment contains a provision, not included in the Senate bill, that a distinction be made between a "direct provider" and an "indirect provider" of health care. A direct provider is an individual whose primary current activity is the provision of health care to individuals or the administration of health care facilities and who, as required by State law, has received professional training and is licensed or certified. Indirect providers are individuals who have certain fiduciary positions or financial interests, who are members of immediate families, or who are engaged in issuing health insurance (section 1431(c)).

The conference substitute conforms to the House amendment but lists examples of direct providers (section 1531(3)).

CENTERS FOR HEALTH PLANNING

The House amendment contains a provision, not included in the Senate bill, that directs the Secretary to assist (by grant or contract) entities in meeting the costs of planning and developing new centers, and operating existing and new centers, for multidisciplinary health planning development and assistance. At least five centers are to be in operation by June 30, 1976. Further, th House amendment authorizes $5 million for fiscal year 1975, $8 million for fiscal year 1976, and $10 million for fiscal year 1977 (section 1434).

The conference substitute conforms to the House amendment (section 1534).

NATIONAL HEALTH PLANNING INFORMATION CENTER

The House amendment contains a provision, not included in the Senate bill, that directs the Secretary to establish a national health planning information center to support the health planning and resources development programs of health systems agencies, State Agencies, and other entities, and to provide information (section 1433(c)).

The conference substitute conforms to the House amendment (section 1533(c)).

CERTAIN UNIFORM SYSTEMS

The Senate bill contains a provision, not included in the House amendment, requiring the Secretary to establish within one year of the date of enactment the following: a uniform system for calculating the aggregate cost of operation and the aggregate volume of services provided by health service institutions; a uniform system for cost accounting and calculating the volume of such services; a uniform system for calculating rates to be charged to health insurers and other health institutions payors by health service institutions; a classification system for health service institutions; and a uniform system for the reporting of costs and volume of services and rates by health service institutions (section 1433(c)).

The conference substitute conforms to the Senate bill with minor modifications (section 1533(d)).

REVIEW BY THE SECRETARY

Local Agencies

The Senate bill specifies that the Secretary is authorized to review the structure, operation, and performance of the functions of the health systems agencies (section 1434(c)).

The House amendment is the same except that such review is required to be made by the Secretary (section 1435(c)).

The conference substitute conforms to the House amendment (section 1535(c)).

State Agencies

The Senate bill further specifies that the Secretary is authorized to review the structure, operation, and performance of the functions of State Agencies (section 1434 (d)).

The House amendment is the same except that such review is required to be made by the Secretary (section 1435(d)).

The conference substitute conforms to the House amendment (section 1535(d)).

WAIVER AUTHORITY

The Senate bill contains a provision, not included in the House amendment, that at the request of the Governor of a State applying for a waiver, the Secretary shall waive requirements for establishment of health service areas and health systems agencies, if he finds that

a State applying for assistance under the planning title or the Hill-Burton title—

(1) has no county or municipal public health institutions or departments, and

(2) has, prior to the date of enactment, maintained a health planning system which substantially complies with the purposes of this title.

The Senate bill further has a provision, not included in the House amendment, that a State receiving a waiver and otherwise meeting the requirements of the planning title shall be eligible for assistance authorized by the planning title (section 1436).

The conference substitute conforms to the Senate bill (section 1536).

This section is directed at any state which has successfully operated a statewide health planning system and which continues to maintain a health planning system which substantially complies with the purposes of this Act. It is intended to provide for meaningful participation within the statewide health planning system by providers, consumers, government officials, and private nonprofit planning agencies, and to encourage the continuation of those relationships or procedures where agencies in the private sector are performing satisfactorily.

Hill-Burton Program

TITLE AMENDED

The Senate bill amends title VI of the PHS Act with a new text for the Hill-Burton program (section 201).

The House amendment adds a new title XV to the PHS Act containing a new text for the Hill-Burton program (section 4).

The conference substitute adds a new title XVI to the PHS Act containing a new text for the Hill-Burton program (section 4). The new title number is used because a new title has been added to the PHS Act by another public law since the House amendment was written.

ASSISTANCE AUTHORIZED

The Senate bill authorizes allotments to States for grants, and project grants and loans and loan guarantees (with interest subsidies) to be made by the Secretary. Grants by the Secretary are to be made to public and nonprofit private entities for construction and modernization of outpatient facilities and modernization of health facilities which will serve medically underserved populations. The amount of any such grant is not to exceed 75 percent of the cost of the project unless the project is in an urban or rural poverty area, in which case the grant may cover 100 percent of such costs (sections 600, 610, and 612).

The House amendment authorizes similar allotments to the States and allots to the States the principal of loans and loan guarantees (with interest subsidies), rather than having such loans and loan guarantees administered by the Secretary. In addition the House amendment specifies that not more than one-third of a State's allotment for

grants may be used for construction of new facilities for inpatient services (parts B and C).

The conference substitute conforms to the House amendment except that:

(1) The Secretary is authorized to make grants to public entities for projects which will eliminate or prevent imminent safety hazards or avoid noncompliance with State or voluntary licensure or accreditation standards. The amount of such projects is not to exceed 75 percent of the cost of the project unless it is in an urban or rural poverty area, in which case the amount may cover up to 100 percent of the cost.

(2) No more than 20 per centum of any State's allotment for grants is to be used for new construction of inpatient facilities (section 1611(d)(1)).

Funds for project grants to public entities to accomplish the purposes of part D by the Secretary are to be provided through a 22 percent earmark of any appropriations under authorizations of appropriations for allotments to States.

PROJECTS AUTHORIZED

The Senate bill authorizes assistance for:

(1) Construction and modernization of public or other non-profit outpatient facilities, and

(2) Modernization of public or other non-profit health facilities which will serve medically underserved populations or populations which, without the modernization of such facilities, would be designated medically underserved populations, as may be necessary, in conjunction with existing facilities, to furnish adequate health care service (section 600).

The House amendment authorizes assistance for:

(1) Modernization of medical facilities;

(2) Construction of new outpatient medical facilities;

(3) Construction of new inpatient medical facilities in areas which have experienced rapid recent population growth (as defined in regulations of the Secretary); and

(4) Conversion of existing medical facilities for the provision of new health services (section 1501).

The conference substitute conforms to the House amendment except that not less than 25 percent of any State's allotment is to be used for the construction of outpatient facilities serving medically underserved populations, and the Secretary is to seek to assure that half of these funds are used in rural areas and half in urban areas (section 1601 and section 1611(d)(2)).

GENERAL REGULATIONS

Definition of Medical Facility

The Senate bill defines the term health facility to mean a facility which provides to patients the services of licensed physicians and a reasonably full range of diagnostic and treatment services, or a rehabilitation facility (section 627(3)).

The House amendment defines the term medical facility to mean a hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, or other facility for the provision of health care to ambulatory patients (section 1534(13)).

The conference substitute conforms to the House amendment.

Priorities

The Senate bill and the House amendment each contain a provision requiring the Secretary to establish priorities among projects to be assisted. The priorities in the two provisions are somewhat different and the conference substitute compromises by combining all of the priorities in both provisions (section 1602(a)(1)).

The Senate bill contains a provision, which is not included in the House amendment, requiring the Secretary by regulation to prescribe the manner in which assisted entities are to comply with required assurances and the means by which they will demonstrate compliance. Reports are required and there is a specific provision barring any waiver from the reporting requirement (section 620(f)).

The conference substitute conforms to the Senate bill (section 1602(a)(6)).

Requirements Respecting Provision of Services

Both the Senate bill and the House amendment provide that the Secretary's regulations are to require the State plan to provide for adequate facilities to furnish needed health services for persons unable to pay (Senate section 620(e) and House section (a)(5)).

In addition, the House amendment specifies that the regulations are to require that the State plan provide adequate facilities for all persons residing in the State. Further, the Secretary may by regulation require that State agency secure from an applicant for assistance satisfactory assurances respecting the provision of services to all residents and respecting the provision of a reasonable volume of services to persons unable to pay for those services (section 1502(b)).

The conference substitute conforms to the House amendment (section 1602(b)).

STATE PLAN

Scope of the State Plan

The Senate bill requires approval of a State plan as a condition to the receipt of allotments. In addition, a project to be assisted under an allotment must be included within the State plan and an application therefor must be submitted through the State Agency (section 603(a)).

The House amendment requires approval of a State plan as a condition to the receipt of allotments and loans and loan guarantees. Projects to be assisted through allotments or loans or loan guarantees must be included within the State plan and an application therefor must be submitted through the State Agency (section 1504).

The conference substitute conforms to the House amendment (section 1603).

Role of the Statewide Health Coordinating Council

The Senate bill requires that the State plan must be approved by the Statewide Health Coordinating Council as consistent with the State health plan developed under title XIV (section 602(a)(3)).

The House amendment contains no corresponding provision, but requires the State plan to be consistent with the State health plan developed under title XIV (section 1503(a)(3)).

The conference substitute conforms to the Senate bill (section 1603(a)(3)).

PROJECT APPROVAL

Findings as to Need

The Senate bill requires findings as to need as a condition to receipt of assistance through allotments (section 603(b)(9)).

The House amendment requires findings as to need as a condition to receipt of assistance under loans and loan guarantees as well as allotments (section 1504(b)(1)(A)).

The conference substitute conforms to the House amendment (section 1604(b)).

Assurances Respecting Adequate Financial Support for Projects Serving Urban or Rural Poverty Areas

The Senate bill specifies that Federal assistance provided outpatient facilities (or individuals served by such facilities) may be considered as financial support in determining if reasonable assurance can be given that adequate financial support will be available for the projects' maintenance and operation (section 603(b)(5)).

The House amendment contains no corresponding provision.

The conference substitute conforms to the Senate bill (section 1604(b)(1)(E)).

Special Requirement for Outpatient Facility Projects

The Senate bill contains a provision, not included in the House amendment, which provides that reasonable assurance must be given that the services of a general hospital will be available to patients of an outpatient facility who need hospital care, in the case of any project for an outpatient facility (sections 603(b)(8), 613(b)(8)).

The conference substitute conforms to the Senate bill (section 1604(b)(1)(E)).

Special Provisions for Outpatient Facility Projects

The House amendment contains a provision, not included in the Senate bill, which provides that for a modernization project for an outpatient facility which will provide general purpose health services, which is not part of a hospital, which will serve a medically underserved population and for which not more than $20,000 is sought under allotments or loans:

(1) The Secretary may waive requirements respecting modernization and equipment standards, and title to the project site, and

(2) The Federal share may not exceed 100 percent of the first $6,000 and two-thirds of the next $21,000 of the project costs (sections 1504(b)(2) and 1534(2)(A)).

The conference substitute conforms to the House amendment (section 1604(b)(2)).

Assurances Respecting Persons to be Served

The Senate bill requires that applications must contain reasonable assurances that project facilities will be made available to all persons

residing or employed in the areas served by the facilities (sections 603(b)(10) and 614(b)(9)).

The House amendment is identical except that no assurance is required with respect to persons employed in an area to be served by a project (section 1504(c)(2)(A)).

The conference substitute conforms to the Senate bill (section 1604(b)(1)(J)).

ALLOTMENTS

Formula for Allotments

The Senate bill provides that allotments are to be made by the States on the basis of the existing Hill-Burton formula for allotments for construction projects (section 601(a)).

The House amendment provides that allotments are to be made among the States on the basis of the population, the financial need, and the need for medical facilities projects of the respective States (sections 1510(a) and 1521(a)).

The conference substitute conforms to the House amendment (section 1610(a)).

Reallotment

The House amendment contains a provision, not included in the Senate bill, which authorizes the Secretary to reallot unobligated allotments at the end of the second fiscal year after the allotment is made (sections 1510(c) and 1521(b)).

The conference substitute conforms to the House amendment (section 1610(c)).

LOANS AND LOAN GUARANTEES

Interest Rates

The Senate bill provides that the interest rate on a loan shall be the current prevailing rate of interest minus the lesser of (1) one-half of such rate, or (2) 4½ percent (section 614(a)(1)).

The House amendment provides that the interest rate on a loan shall be the current prevailing rate of interest minus 3 percent (section 1522(b)(2)(D)).

The conference substitute contains a compromise applying the Senate provision in poverty areas and the House provision in other areas.

Interest Subsidies

The Senate bill provides that the Secretary is to pay on behalf of the holder of a guaranteed loan an interest subsidy which will reduce the interest rate payable on the loan to the lesser of (1) one-half the current prevailing rate of interest, or (2) 4½ percent (section 614(b)(2)).

The House amendment provides that the Secretary shall pay on behalf of the holder of the guaranteed loan an interest subsidy which shall reduce by 3 percent the effective rate of interest payable on such loan (section 1520(b)(2)).

The conference substitute contains a compromise applying the Senate provision in poverty areas and the House provision in other areas.

Ceiling on Loans and Loan Guarantees

The Senate bill provides that a loan or a loan guarantee may not exceed 90 percent of the costs of a project unless the project is in an

urban or rural poverty area, in which case the loan or loan guarantee may cover 100 percent of such costs (section 611(b)).

The House amendment is the same except that no increase is permitted with respect to projects in urban or rural poverty areas (section 1534(2)(C)).

The conference substitute conforms to the Senate bill.

WITHHOLDING OF PAYMENTS AND OTHER ACTIONS

Special Office

The Senate bill contains a provision, not included in the House amendments, which directs the Secretary to establish a permanent office in HEW to review compliance with the requirements applicable to the receipt of assistance under the Hill-Burton program (section 621(c)(1)).

The conference substitute conforms to the Senate bill but excludes the requirement for the establishment of a permanent office in HEW (section 1612).

Action by the Secretary and Others

The Senate bill contains a provision, not included in the House amendment, which specifies that, if the Secretary finds an entity has failed to comply with assurances, he shall either withhold payments to such entity or affect compliance by other means authorized by existing law. It further provides that actions to enforce compliance may be brought by a person other than the Secretary, if the Secretary has either dismissed a complaint made to him by such person or has failed to act on such complaint within six months after the date on which it was filed with him (section 621(c)(2)(3)).

The conference substitute conforms to the Senate bill (section 1612).

JUDICIAL REVIEW

The Senate bill contains a provision, not included in the House amendment, which provides that any entity which will be adversely affected by an action taken by the Secretary to enforce the requirements applicable to receipt of assistance may seek review in the U.S. Court of Appeals of such action (section 622).

The conference substitute conforms to the Senate bill.

WAIVER OF RECOVERY REQUIREMENT

The Senate bill contains a provision, not included in the House amendment, which provides that the Secretary may waive the right of the United States, to recover assistance provided for a project, if:

(1) The amount which could be recovered is applied to the development, expansion, or support of another health facility and such other health facility has been approved by the Statewide Health coordinating Council as consistent with the applicable State health plan, or

(2) The Secretary determines there is good cause for such waiver. Any such waiver may only apply to up to 90 percent of

the cost of a project and only with respect to actions occurring either within one year before the date of enactment or after the date of enactment (section 623(b)).

The conference substitute conforms to the Senate bill.

RECORDS, AUDITS AND FINANCIAL STATEMENTS

The Senate bill provides that entities which receive assistance are to keep records respecting such assistance and that the Secretary and the Comptroller General are authorized to have access to these records for the purpose of audit. Further, the bill requires that assisted entities are to file certain financial statements annually (section 624).

The House amendment provides only that assisted entities are to file certain financial statements annually (section 1535).

The conference substitute conforms to the Senate bill.

TECHNICAL ASSISTANCE

The Senate bill contains a provision, not included in the House amendment, which directs the Secretary to provide technical and other nonfinancial assistance to entities to assist them in developing applications for assistance. The Secretary is also required to inform eligible entities of the availability of assistance (section 626).

The conference substitute conforms to the Senate bill.

FEDERAL HOSPITAL COUNCIL

The House amendment contains a provision, not included in the Senate bill, which continues the existing Federal Hospital Council. The provision specifies that the Council is to approve the Secretary's general regulations under new title XV. The amendment further provides that if the Secretary disapproves a State plan, the Council, upon the request of the State Agency, shall review the decision of the Secretary and may approve the plan (sections 1503(b), 1532).

The conference substitute conforms to the Senate bill but requires that the National Council on Health Planning and Development established in title XIV shall advise the Secretary with respect to programs under new title XVI.

DEFINITIONS

Construction

The Senate bill defines the term "construction" so as to include the cost of off-site improvements and the cost of the acquisition of land (section 627(1)).

The House amendment defines the term "construction" to exclude the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land (section 1534(9)).

The conference substitute conforms to the House amendment.

Cost

The Senate bill defines the term "cost" to exclude any amount found by the Secretary to be attributable to expansion of the bed capacity of any facility (section 627(6)).

The House amendment contains no comparable exclusion (section 1534(10)).

The conference substitute conforms to the House amendment with respect to new construction and the Senate bill with respect to modernization.

Title

The Senate bill defines the term "title" to mean an estate or interest which assures use and possession for a period of (1) not less than 20 years in the case of a grant, or (2) in the case of a loan or loan guarantee, the term of repayment of the loan made or guaranteed (section 627(9)).

The House amendment defines the term "title" to mean an estate or interest which assures use and possession for a period of not less than 25 years (section 1534(12)).

The conference substitute conforms to the Senate bill.

Federal Share

The Senate bill provides that, in the case of a project assisted under an allotment, the Federal share should be not more than the lesser of (1) two-thirds or (2) the State allotment percentage (if the percentage is less than 50 percent, the percentage shall be deemed to be 50 percent). The Senate bill also provides that in the case of a project in a rural or urban poverty area the Federal share may be 100 percent (section 627(11)).

The House amendment provides that in the case of a project to be assisted under an allotment the Federal share may not exceed two-thirds (section 1534(2)).

The conference substitute conforms to the House amendment but retains the Senate provision allowing a 100 percent Federal share in poverty areas.

AUTHORIZATIONS OF APPROPRIATIONS

The Senate bill authorizes for allotments and project grants for fiscal year 1975, $125 million; fiscal year 1976, $125 million; and fiscal year 1977, $125 million. The Senate bill further provides that one-half of the sums appropriated are to be used for allotments and one-half are to be used for project grants. The bill further authorizes such sums for loans and interest subsidies as may be necessary for fiscal years 1975, 1976, and 1977 (section 625).

The House amendment authorizes for allotments for fiscal year 1975, $125 million; fiscal year 1976, $150 million; and fiscal year 1977, $175 million. The House amendment also authorizes $40 million in the aggregate for fiscal years 1975, 1976, and 1977 for capitalization of the loan and loan guarantees fund (sections 1513, 1522(e)(2)).

The conference substitute authorizes for allotments and project grants for fiscal year 1975, $125 million, fiscal year 1976, $130 million, and fiscal year 1977, $125 million. The conference substitute authorizes such sums as may be necessary for capitalization of the loan and loan guarantee fund. Twenty-two percent of any funds appropriated are to be used by the Secretary for project grants (section 1613).

TRANSITIONAL PROVISIONS

The House amendment contains a provision, not included in the Senate bill, which provides that any State which in fiscal year 1975 or the next year has funds available for obligation from its allotments under part A of title VI of the PHS Act may in such year use for the proper and efficient administration during such year of its State plan approved under such part an amount of such funds which does not exceed 4 per centum of such funds or $100,000 whichever is less (section 5(b)).

The conference substitute conforms to the House amendment. The bill, as amended, includes authorizations for appropriations under existing sections 314(a), 314(b), 304, and existing title IX so as to insure a smooth transition to the new program. The conferees noted their expectation that the Secretary will impose conditions on grants made under this authority to insure that funds will be used to effect the transition rather than merely to continue the old programs. The conferees have not included an authorization for appropriations for fiscal 1975 under title VI and therefore do not contemplate that appropriations will be made under that authority pursuant to a continuing resolution.

ADVISORY COMMITTEES

The House amendment contains a provision, not included in the Senate bill, concerning advisory committees. Under the House amendment advisory committees established by or pursuant to the PHS Act, Developmental Disabilities Act, Community Mental Health Centers Act, and Alcoholism Act are to terminate at such time as may be specifically prescribed by an Act of Congress enacted after the date of enactment (this waives application of the Federal Advisory Committee Act). The House amendment further provides that the Secretary of HEW is to report to the committees within one year after the date of enactment on the purpose and use of each such advisory committee and his recommendations respecting the termination of each such advisory committee (section 6).

The conference substitute conforms to the House amendment.

RADIATION HEALTH AND SAFETY

The Senate bill provides that the PHS Act provisions respecting radiation safety are amended to add the following:

(1) A requirement that the Secretary of HEW issue criteria and standards for accreditation of schools with programs for training radiologic technicians, medical and dental practitioners, dental hygienists and dental assistants;

(2) A requirement that the Secretary of HEW issue criteria and standards for licensure of radiologic technologists;

(3) A requirement that the Secretary of HEW review and approve voluntary certification programs and license individuals certified under approved programs;

(4) A requirement that either the State adopt the Secretary's standards for accreditation or the Federal standards become ap-

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plicable to the State. An adequate State program must be adopted in two years (or pursuant to the Secretary's extension, in four years);

(5) A requirement similar to item 4 for licensure of radiologic technologists;

(6) Authority for (A) grants to States or designated professional organizations to plan, develop or establish programs under this provision (two-thirds in the first year, one-third in the second year), and (B) grants to educational institutions;

(7) A requirement for annual review by HEW of accreditation and licensure programs;

(8) Prohibition on application of "potentially hazardous radiation" by unlicensed personnel effective three (or five) years after date of enactment; and

(9) Authority for district courts to restrain violations and to impose civil penalties of up to $1,000 per violation (section 403).

The House amendment contains no corresponding provision.

The conference substitute conforms to the House amendment except that conferees noted their intention to examine the subject in hearings during the next year.

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